BILL—STANDARD SURVEY MARKS.

Second Reading.

Debate resumed from 2nd October.

Hon. SIR JAMES MITCHELL (Northam) [8.44]: This is one of the Minister for Lands' little Bills. He has a number of them, and he always endeavours to persuade us that they should go through without debate. We are told the Bill must pass, because the authority the Minister seeks to take for survey marks is essential. The local authorities are to be charged with the responsibility of protecting survey marks within their boundaries. It is here that I see the hand of the Minister. Nothing can happen to the local authorities if they do not carry out their responsibilities. Of course it is difficult to provide a penalty in the event of neglect. When this Bill becomes law people will need to be a little more careful about obliterating survey marks, because the penalty will be fairly severe. It is necessary to provide a severe penalty. This Bill was drafted some time ago and might well have been passed earlier.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

House adjourned at 8.50 p.m.

Legislative Council,

Tuesday, 14th October, 1924.

The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

QUESTION—GAMBLING, EMBEZZLEMENT AND SUICIDE.

Hon. A. BURVILL asked the Colonial Secretary: 1, What is the number of persons charged with and the number convicted of embezzlement for each year in the last three years? 2, How many of these convictions can be attributed to gambling? 3, What is the number of suicides and attempted suicides attributable to the same cause in the same period?

The COLONIAL SECRETARY replied: 1, Charges—1921, 17; 1922, 22; 1923, 36; total, 75. Convictions—1921, 13; 1922, 12; 1923, 18; total, 43. 2, Attributable to gambling—1923, 5; total, 5. 3, No record of any.

NOTICE OF MOTION—TRAFFIC REGULATIONS.

Hon. H. STEWART (South-East) [4.33]: Standing in my name is a notice of motion that reads—

That the repeals, additions, and amendments to the traffic regulations and the second schedule thereto, promulgated under the Traffic Act, 1919, as amended by the amending Act, 1924, published in the Government Gazette of 5th September, 1924, and laid on the Table of the House on the 10th September, 1924, be and are hereby disallowed.

I wish to move—

That consideration of the motion be postponed till the 28th October.

When I bring forward my motion I shall not move it in the present form that all the regulations be disallowed. I shall simply move that paragraph A of subclause 6 of Regulation 150 be disallowed. I mention this so that the Minister will recognise there is no intention on my part to hold up the whole of the regulations. The Minister in charge has already been approached by the local governing authorities, and when the 28th October comes there may not be any need to move the motion.

Question put and passed.

BILL—TRUST FUNDS INVESTMENT.

Report of Committee adopted.

BILL—LEGAL PRACTITIONERS ACT AMENDMENT.

Second Reading—Defeated.

Debate resumed from the 9th October.

Hon. J. NICHOLSON (Metropolitan) [4.38]: I intend to oppose the second reading. Some members may think I hold prejudiced views, but I assure them I do not.

Hon. J. Cornell: We shall judge as you go along.

Hon. J. NICHOLSON: It will be conceded that at all times I have shown a decided inclination to adopt liberal legislation where it could be wisely and properly done, safeguarding the rights and interests of the public. It is because I think the safety of the public will be endangered that

I oppose the Bill. Mr. Lovekin in moving the second reading, refrained from explaining in any detail the purposes and objects of the clauses that would effect certain reforms. He, however, did explain his ambitions in early life, how he had been thwarted in his young and less fortunate days from becoming, first a doctor, and later a lawyer.

Hon. J. J. Holmes: Now he knows a bit of both.

Hon. J. NICHOLSON: By reason of adverse conditions, he explained, he was driven to become a journalist. The narration of those circumstances may have been intended to arouse a certain degree of sympathy, and may possibly serve to explain why he is sponsoring this Bill. I ask members to judge whether we have reason to congratulate or commiserate with the hon. member, because of his having been prevented from filling a niche in one of those other professions. He has obviously forgotten that a destiny has shaped his ends with exceedingly good results, and I am convinced the fates have been kind to him in saving him firstly, from the toil of life as a doctor, and secondly, from the drudgery of a lawyer's life.

Hon. J. W. Kirwan: He might now have been on the Supreme Court bench.

Hon. J. NICHOLSON: Possibly so. It has been said that a straw or a pebble may divert the course of a stream. Mr. Lovekin's course in life has been diverted, I think he will admit, to his personal gain. I am glad to acknowledge that he has done many good and kind acts with the good fortune with which he has been blessed. One might have thought that where a man had been so successful in life, he would have held up his hand and said, "I am content." Not so the hon. member, and I have wondered whether he will really be content until he has introduced a Bill probably to alter the law of gravity or some other great natural law.

Hon. A. Lovekin: I would like to be able to do it now. It is very hard to climb this hill.

Hon. J. NICHOLSON: The hon. member desires to alter a law considered necessary in the interests and for the protection of the public by our wisest legal men of former years. Amongst the men who helped to frame the law was the late Mr. Septimus Burt, a man honoured in his profession, who I think Mr. Lovekin will admit was a man to be respected.

Hon. A. Lovekin: Certainly.

Hon. J. NICHOLSON: Mr. Lovekin has not advanced one argument which could not have been advanced in earlier years, when the existing Act was passed, or when it was amended in 1909. In the latter year the scope of the Act was considerably enlarged and liberalised. Among the reforms proposed by this Bill is one which provides for the removal of the preliminary examination and of the articles of clerkship—two things considered necessary by the wiseacres of former years, but which apparently the member who introduced the Bill and Mr. Lovekin think can well be dispensed with. I venture to say that if any profession needs such tests, it is the profession of the law. Take, for example, the preparing of documents. One of the most important branches of a lawyer's business is that of conveyancing. Mr. Lovekin, in moving the second reading, somewhat underrated that branch by suggesting that it was now a mere matter of detail, almost a matter of machinery. After many years of experience, however, I can assure Mr. Lovekin that conveyancing, instead of being mere detail matter, is something which involves profound thought and great care to be proficient in. In connection with the preparation of agreements and wills and a host of other documents which come before a lawyer in the course of his career, a man must have a thorough knowledge at any rate of his native language, of the King's English. Without that knowledge, how in the world is he going to draw a proper document? And how, if he rises to any height in his profession and is called upon whilst sitting on the bench to interpret a document or a will or even a statute, is he going to interpret it properly?

Hon. J. Cornell: As those things are done now.

Hon. J. NICHOLSON: I can understand the way the hon. member interjecting would suggest. That would be a way which would result in injustice.

Hon. J. Cornell: There might be fewer law cases then than there are to-day.

Hon. J. NICHOLSON: In my opinion the passing of such a measure as this would multiply the cases bound to come before the courts. It has been said that a man who prepares his own will has a fool for a client.

Hon. J. Cornell: There were lots of fools in the A.I.F., then.

The PRESIDENT: Order!

Hon. J. NICHOLSON: The man who gets his will prepared by a legal practitioner not possessed of a sound educational training has a fool for his lawyer.

Hon. A. Lovekin: There were two will cases recently, one that of an ignorant man, the other that of Lord Northcliffe. There was a lot of trouble over Lord Northcliffe's will, and no trouble over the ignorant man's.

Hon. J. NICHOLSON: If Lord Northcliffe prepared his own will, he proved the truth of the old adage. I can speak with the knowledge of years, and therefore venture to think I can help hon. members to come to a wise decision regarding this Bill. Instead of being an advantage to the public, its passing, I say unhesitatingly, would be a serious menace.

Hon. J. Cornell: Are you serious in saying that all men who to-day are qualified in law can draw agreements that escape

running the gauntlet of the law courts for interpretation there?

Hon. J. NICHOLSON: I do not venture to say that all men are competent, but I do say that unless we have the standard of education and the tests laid down by the existing Act and rules, we are going to make the position worse instead of better. I think there is no hon. member but will admit that whatever vocation in life a man may engage in, whether that of a tradesman or that of one who seeks proficiency in a profession, it is absolutely necessary, in order that he may be of any service to the community and may practice either his trade or his profession with safety to the public, that he should have years of practical training in it. Take the case of a carpenter. He usually has several years of apprenticeship. No one would suggest that a man would become a competent carpenter by the mere passing of examinations, with one year's training as a carpenter, or one year's service in a carpenter's shop. The same line of argument might be pursued through the whole list of trades.

Hon. J. Duffell: Imagine a blacksmith laying down his sledge hammer to take up the trade of a jeweller.

Hon. J. NICHOLSON: The trade of a jeweller and watchmaker is very important. I do not know what would be the result if a jeweller possessed of a merely theoretical knowledge proceeded to deal with chronometers. To equip one for the profession of law, not only is the test of examination necessary, but also an apprenticeship, or, as it is called, service under articles of clerkship. It is utterly absurd to suggest that if a man passes written examinations and serves a year in a lawyer's office, as suggested by the Bill, he will be a qualified lawyer. Educational standards and requirements laid down by the Act and the rules as a test of capacity are to be wiped out by this Bill. Because of the establishment of those educational standards and requirements the Barristers' Board here succeeded some years ago in arranging reciprocity with the other Australian States and also with England, so that to-day a solicitor qualified under the Act and rules in force here would be enabled to seek admission to the courts of the other States and of England. Remove these conditions, and the result will be the disappearance of all the reciprocal arrangements and our lawyers will lose the right they enjoy at present of removing from this State to practice their profession in another State or in England should they desire to do so.

Hon. J. Cornell: Are both the provisions to which you refer to be found in the legislation of the other States with regard to legal practitioners?

Hon. J. NICHOLSON: The other States have provisions similar in nature to those which appear in our Act and rules. It is true that in certain States enjoying the advantage of a university with a chair of law the taking of a degree enables a man to become qualified by service under articles for a lesser period. We in this State, should we be fortunate enough to have a faculty of law established in our University, would be enabled to avail ourselves of the privileges which are enjoyed by residents of other parts of the Commonwealth. As a matter of fact, our Act and rules at the present time provide that if a man takes the degree of bachelor of laws, then, instead of serving the full period of five years under articles of clerkship, for him the term may be reduced to three years.

Hon. A. J. H. Saw: You are not overgenerous.

Hon. J. NICHOLSON: The matter is one which can always be considered in the event of a faculty of law being established in our University. As a fact, a conference was held some years ago amongst the Attorneys General of the various States, and they decided on the establishment of these reciprocal arrangements. At that conference it was laid down that certain standards should be observed—firstly, a preliminary educational test; secondly, articles of clerkship; and thirdly, adequate examinations. The present law is based on those things, and if the requirements in question are removed, as proposed by the Bill, those reciprocal relations will be wiped out. The Bill, therefore, instead of being as is claimed, a constructive measure, is decidedly a destructive one. It might have been imagined that the movers of a Bill such as this would have invited the opinion of the Barristers' Board appointed under the existing Act. The board are distinctly an administrative body under the Act, and not primarily an educational body. It is true that they appoint the examiners in law, but the board themselves are purely an administrative body. Until a chair of law is established here, one could not without altering or recasting the whole of the present rules seek to transform the Barristers' Board, as the Bill proposes, from an administrative body into what would really be an examining body. The Bill apparently has not received the approbation of the Barristers' Board. If the board had endorsed the Bill, its sponsors might have had some degree of hope of getting it passed into law. The mover of the Bill may suggest it is of no use applying to the board, because in his opinion it is a blind and prejudiced board. From my knowledge of the board, I can say its members are men of liberal views, and that whatever they can do to advance the profession, they can be relied upon to do readily. The only argument of any weight the hon. member brought forward was in regard to the barristers of England and Ireland. Under our Act provision is made for the admission of barristers of the High Court of England or of Ireland. There was a good reason for the insertion of that provision. To understand the reason we have to go back to Crown Colony days, when there were very few practising solicitors in any part

of Australia, and when, as in other Crown colonies, legal appointments were held in the first place by men qualified as barristers. It was recognised in respect of Western Australia and certain other Australian States that, owing to the smallness of the community, it was desirable to amalgamate two branches of the profession that in England, Ireland and Scotland are distinct, the branch of advocacy being relegated to barristers as entirely separate from that other branch of the law in which men qualify as solicitors. In the Old Land it has been held desirable for the benefit not only of the clients, but also of the profession, to keep these two branches distinct. It may be debatable whether or not the two branches should be amalgamated, but we are not here to consider that aspect. We are here to recognise that when provision was made for the admission of barristers, the two branches here were amalgamated, and a man when admitted was admitted not only as a barrister but also as a solicitor; in other words, he was admitted as a legal practitioner. A barrister does not serve articles nor sit in an office chair and draw agreements, as does a young man on entering a solicitor's office.

Hon. A. Lovekin: But he settles them.

Hon. J. NICHOLSON: In certain cases, yes. When Mr. Lovekin was moving the second reading he used words, perhaps only jokingly, that were suggestive of ridiculing the profession. He said that the man who qualifies as a barrister in the Old Land has nothing to do but eat a number of dinners at the Inns of Court and present himself before some benign and pleasant-mannered gentleman. From that one would almost infer that a barrister's mental qualifications had to be determined by his epicurean tastes or else by his gastronomic powers. If that was the hon. member's suggestion, as apparently it was, I regret that he, an eminent journalist, should have so poor an opinion of men who hold such high positions in the world. What about men like Lord Halsbury, who is qualified merely as a barrister? What about the eminent jurists of the present and past years? Have we to listen to such ridicule as that, and are members to be swayed by anything so absolutely absurd and ridiculous? I do not think they will be.

Hon. A. Lovekin: Was Halsbury examined?

Hon. J. NICHOLSON: Like the rest of them, yes. The hon. member belittled greatly a very high profession, a profession wherein we find the most eminent men. He omitted to explain what he should have explained, and it is now my duty in opposing this measure to tell hon. members that he has distinctly misguided them into a wrong conception as to even what a barrister is. I shall regret it indeed if hon. members take him seriously, but in replying to the hon. member it is only right to say that barristers have to pass an educational test.

Hon. A. Lovekin: When and where.

Hon. J. NICHOLSON: Before they can be enrolled.

Hon. A. Lovekin: They have to matriculate?

Hon. J. NICHOLSON: They must, and, in addition, in the Old Land in qualifying for that high branch of the law they possess advantages of which, unfortunately, our young men here are deprived. They have to attend lectures and pass examinations before they can be enrolled to their Inns. It takes them a certain number of years to qualify. Any man who wants to rise in his profession as a barrister must not only attend the lectures, but also must sit in the chambers of some of those distinguished leaders of the Bar, where he gets a training that enables him to fulfil his duty in after life. The lectures those men have to attend are not delivered by useless types of men at all, but by men of the highest standing in their profession, specialists in various branches of the law which it is the duty of every barrister to study and qualify in.

Hon. A. Lovekin: Is it not necessary to attend six dinners every term?

Hon. J. NICHOLSON: That phase of it is much misunderstood. He must attend certain dinners by way of indicating that he is resident in Inns of Court. That is to say, he has to attend his studies and, to make sure of his attendance, he must be present at those dinners. Then, of course, he has to pass stiff examinations, examinations set by men who possess the highest qualifications after years of study in the various branches of the law.

Hon. A. J. H. Saw: Mr. Lovekin said they passed no examination.

Hon. J. NICHOLSON: That is what I wish to contradict. I am seeking to correct the hon. member. Probably he will now retract the statements and suggestions that, unfortunately, he made. In concluding his speech Mr. Lovekin said that if the principle of the Bill were agreed to, details could be settled later on. That is a very nice way of putting it. He said all this without advancing any arguments that could convince one as to the acceptability of the Bill. The Bill is devoid of principle. It has none at all.

Hon. A. J. H. Saw: It has—a bad one.

Hon. J. NICHOLSON: I mean it has no good principle at all.

Hon. J. J. Holmes: But it has one supporter.

Hon. J. NICHOLSON: If the Bill possessed a good principle, we might be able to support the hon. member.

Hon. A. Lovekin: It will increase the business of the legal profession, and they ought to support it.

Hon. J. NICHOLSON: If the hon. member thinks that members of the legal profession are so base that in order to increase their business they would support a Bill like this, I am not going to help him.

Hon. J. Duffell: That is a good one.

Hon. J. NICHOLSON: This is an amending Bill. If it contains a principle at all it should be in accordance with the existing Act, but it is absolutely opposed to the principle of the Act. It is, therefore, devoid of all good principle. To illustrate this I will refer to some of the provisions of the existing law, and compare them with the Bill before us. Clause 4 states:—

> It shall not be necessary for a person qualified as aforesaid to present himself for examination and to be admitted as a practitioner, to pass any preliminary examination, or any other examination than the intermediate and final examinations in law.

Mr. Lovekin said it was not intended to do away with the preliminary examination. I pointed out his error, but he did not correct himself. Clause 4 is an expressed abolition of the preliminary examination.

Hon. A. Lovekin: I said it was to be merged into the other two.

Hon. J. NICHOLSON: This is the sort of principle that is introduced in this Bill. Mr. Lovekin even belittled the necessity for a preliminary examination, and spoke about the school boy tests that a man of 30 might be subjected to. Why should not a man of 30, or 50 or 90, be subjected to these tests if he is going to enter the profession and probably do injury to the public, as he undoubtedly would do if he were not properly equipped?

Hon. A. Lovekin: Do you think the two little equations I put up were too difficult?

Hon. J. NICHOLSON: I am not going to waste time going into anything so absurd, or to allow a red herring to be drawn across the trail.

Hon. A. Lovekin: They are the simplest things imaginable, and I guarantee you could not do them.

Hon. J. NICHOLSON: I had to pass in all those things in order to get through my examinations.

Hon. A. Lovekin: That is my point.

Hon. J. NICHOLSON: Studies of that nature have helped to train me to understand the more abstruse problems I have met in later years.

Hon. A. Lovekin: That is the point I have tried to put up.

Hon. A. J. H. Saw: You want to knock down the hurdle.

Hon. J. NICHOLSON: If a man has not been trained to the requisite educational standard, how can he be expected to rise in the profession beyond the position of a clerk? Such a man could not properly or correctly interpret some of the problems that are bound to come before him, neither could he interpret a statute if he did not know the King's English. He could not even draw a document if he does not possess the knowledge necessary to enable him to do so.

Hon. A. Lovekin: Is it required of him that he shall be able to square X + Y?

Hon. J. NICHOLSON: The man who has passed his examinations has been subjected to the test and has proved his capacity. A man who has become the captain of a steamer has served his time as an apprentice, and has passed the various examinations of the grades leading up to his position in command of the ship.

Hon. J. Cornell: Some men in the profession cause more wrecks on land than some captains do at sea.

Hon. J. NICHOLSON: The number of wrecks would be increased if a Bill like this were passed.

Hon. J. Cornell: That is an excuse; not a reason.

Hon. J. NICHOLSON: Clause 2 suggests that it shall be the duty of the Barristers' Board to admit to any intermediate and final examination any person who—

> (a) Is a natural born or naturalised British subject of the full age of 21 years; (b) is a person of good fame and character; (c) has paid the prescribed fees, not to exceed the examination fees paid by an articled clerk.

This practically makes the board an examining board, whereas it is not so constituted under the Act. The duties of the board are of a highly administrative character, just as are the duties of boards appointed under Acts relating to other professions, etc. The only way to get over the difficulty is for the Government to provide a chair of law at the University. I am sure the Barristers' Board and every member of the legal profession would give the Government every possible help in that direction. The proposal to allow any man to submit himself to this examination, is followed by a clause of a most extraordinary character, one that will not be found in any Act of the Eastern States or the old land. I question if one would find such a provision as this in a Bill framed in any English speaking community, but Mr. Lovekin has the hardihood to recommend it in this Bill. The clause I refer to gives candidates the right to pass their examinations by easy stages, by one subject after another. If they go up for examinations and secure a pass in one subject, but fail in the others, they will be allowed to credit themselves with a pass in that subject, and take the other subjects seriatim.

Hon. A. Lovekin: That is permissible in other cases.

Hon. J. NICHOLSON: No If an engineer were asked to submit himself to examination in that way it would be no test of his capacity.

Hon. A. Lovekin: I would not say too much about that if I were you.

Hon. J. NICHOLSON: The whole principle of the Bill is bad. Clause 3 makes a still more extraordinary provision. The note on the margin is "extension of qualification for admission." It is in fact a removal of the qualification for admission.

Hon. J. Duffell: That is the point.

Hon. J. NICHOLSON: It states:—

> Any person being a natural born or naturalised British subject, who has attained the age of 30 years, and holds the certificates of the board that, under the provisions of Section 2 of this Act, he has passed the intermediate and final examinations, shall be qualified for admission, and may be admitted as a practitioner, subject only to the following conditions, namely, (a) that for six months immediately preceding his application for admission he has resided within the State, (b) that he is in every respect a person of good fame and character, (c) that he has advertised notice of his intention to apply for admission in such manner and for such period as required by the rules in the case of an articled clerk, and (d) that he has paid to the board the fee of 30 guineas, (e) that he has served for a period of at least 12 months in the office of a legal practitioner.

The Bill carefully omits certain provisions of Section 15 of the Act, which is much more stringent, and is made so for very good reasons. In the case of a man who is going to practice as a solicitor or a legal practitioner, one ought to know everything possible about him, so that the public may be safeguarded. One knows the very close and intimate relationship and association that exists between a solicitor and his client. It is a position often involving a very great trust. There has to be some knowledge on the part of the board as administrative body here, that the man they are certifying is fit to fill a position of trust towards his client. Clause 3 will break away the safeguards that are provided by Section 15. That section sets out that no person however qualified in other respects shall hereafter be admitted as a practitioner unless and until he has for six months immediately preceding his application for admission resided within the colony of Western Australia and satisfied the board and obtained from them a certificate that he is, in the opinion of the board, in every respect a person of good fame and character, and fit and proper to be so admitted, and has observed and complied with the provisions of the Act and rules.

Hon. H. Stewart: That is a good safeguard.

Hon. A. Lovekin: That is not so different from the clause in the Bill.

Hon. J. NICHOLSON: There is a big difference indeed.

Hon. A. Lovekin: The one says the board are satisfied, and the other says the applicant is to satisfy the board.

Hon. J. NICHOLSON: Under the rules of the Barrister's Board provision is made for the man who comes to Western Australia and seeks admission from some other country. It is possible that a man who will be able to take advantage of the provisions of the Bill may have been struck off the rolls in some other part of the world, yet there will be no adequate inquiry concerning him! We must remember that rogues and villains are often very clever men. It is often the fact that they have brains that carry them away at the outset. Here is where the safeguard would come in. Mr. Lovekin has not considered the Bill as fully as he should have done. The rules provide that every applicant for admission as a practitioner shall at least five calendar months before he applies to the court for admission lodge certain things as follows:—

> (a) An affidavit in the Form "I" together with the exhibits therein referred to and (b) a certificate of his admission to practise in every court in which he has been admitted to practise and (c) a certificate from the registrar or other proper officer of every court in which he has theretofore been admitted to practise or from the treasurer of his inn that, at the date of such certificate, not being more than four months prior to the date of the lodging of the affidavit aforesaid, the name of the applicant was still on the rolls of the court or inn and that he had never at any time been struck off or suspended nor been the subject of any complaint by any person to the court or inn or to any committee or body having authority to deal with complaints against any person as a member of the inn or entitled to practise before any such court (as the case may be) and (d) a certificate of two persons of repute who have known the applicant in the place wherein he was last practising out of the State certifying that the applicant is well-known to them and in their opinion is a fit and proper person to be admitted as a practitioner in the Supreme Court of Western Australia.

Hon. A. Lovekin: Paragraph (c) of Clause 3 would deal with that point.

Hon. J. NICHOLSON: That rule would not apply under the terms of the Bill. As to paragraph (b), the Legislative Assembly agreed to the insertion of these words in lieu of paragraph (b) appearing in the Act.

Hon. A. Lovekin: Do you say there is any material distinction?

Hon. J. NICHOLSON: Yes, a very material distinction. The next point I shall deal with refers to paragraph (e) of Clause 3 which sets out that a person must have served for a period of at least 12 months in the office of a legal practitioner. There is no suggestion that such a man must serve any articles. All the individual has to do is to pass the preliminary and intermediate examinations and, having fulfilled those simple and easy conditions, he can come along and say that as he has been in a solicitor's office for one year, he claims certain rights under the Bill. There is nothing to indicate what such an individual may have been doing in the solicitor's office.

Hon. A. Lovekin: If you think it is important, you can move to insert something regarding articles in that paragraph.

Hon. J. NICHOLSON: It is of great importance. If I wished to qualify as a bricklayer or carpenter, would it be suggested that after I had served one year and passed some simple, easy examination, I was a qualified bricklayer or carpenter? That is the principle suggested in this paragraph.

Hon. A. Lovekin: It would all depend upon your capacity.

Hon. J. NICHOLSON: We are dealing with one of the most highly trained professions in the world, and we are asked to agree to a lowering of the qualifications to a degree that would not be tolerated in connection with any craft or trade. The thing is absurd!

Hon. H. Stewart: It is an astounding proposal!

Hon. J. NICHOLSON: I am astonished that a man of the training Mr. Lovekin has had should sponsor such a Bill. In addition to that, Clause 7 provides for an amendment of Section 14 of the principal Act as follows:—"has attained the age of 30 years and has passed the intermediate examination and the final examination, or other prescribed examination in law which, under the rules, an articled clerk is required to pass." The effect of that amendment is that if a man is 30 years of age and passes the intermediate and final examinations he can seek admission. If he has served the period I have already referred to in a lawyer's office, he can present a letter and make his claims under the Bill. We do not know what he may have been doing in the lawyer's office. He may have been sitting there twirling his thumbs for the 12 months.

Hon. J. E. Dodd: Should the Bill become law, will the Barristers' Board have the right to fix the standard of the intermediate and final examinations?

Hon. J. NICHOLSON: The Barristers' Board appoint examiners and the examiners set the examination papers: the Barristers' Board do not undertake the duties of examiners themselves.

Hon. J. Cornell: Who elects the examiners?

Hon. J. NICHOLSON: The board.

Hon. J. E. Dodd: Could the board, should they desire to nullify the Bill, make the intermediate and final examinations more stringent?

Hon. J. NICHOLSON: The Act sets down what the various examinations shall consist of. The board cannot depart from that. Take the preliminary examination. The rules provided for a certain standard, but in 1916 the matriculation examination was substituted, and thus if a lad possessed his matriculation certificate he was entitled to serve his articles. Subsequent to 1923 provision was made that applicants for articles should pass an examination prescribed by the University of Western Australia for the school certificate examinations. The University raised the standard of the matriculation examinations, and in order to make it fairly easy for anyone showing that he had a reasonable educational standing, the Barristers' Board did not require the candidate to pass the higher examination prescribed by the University and, in 1923, substituted a new rule as follows:—

> The preliminary examination for applicants for articles shall be the examination prescribed by the University of Western Australia for the school certificate examinations in the following subjects:—(a) English; (b) Latin; (c) mathematics; (d) history; (e) one other subject selected from the following list: Greek, French, German, geography, applied mathematics, physics, chemistry, biology, geology, agricultural science. Of these, three subjects, one of which shall be English or another language, shall be passed at the leaving standard.

The rules also make provision for the subjects to be dealt with at the intermediate and final examinations.

Hon. T. Moore: Then the board did alter the standard last year?

Hon. J. NICHOLSON: For the preliminary examination, and the alteration was with the object of making it easier for the candidate than the matriculation examination.

Hon. T. Moore: And the board could alter the intermediate and final examinations?

Hon. J. NICHOLSON: No, they are bound to examine on the text books and subjects prescribed.

Hon. F. E. S. Willmott: An ordinary English fifth form school boy could pass the preliminary examination.

Hon. J. NICHOLSON: Undoubtedly. Clause 6 is one of the most unintelligible provisions of the Bill. It says—

> Notwithstanding the provisions of the last preceding section, it shall not be a condition precedent to a person being articled to a practitioner that such person shall have passed any examination in general knowledge; but such examination unless dispensed with on the ground that the articled clerk has passed the matriculation examination of, or graduated at a university, must in the case of an articled clerk be passed by him within the first two years after the commencement of his service under articles.

Clause 4 sets out that there shall be no intermediate examination, so what Clause 6 means is hard to ascertain.

Hon. A. J. H. Saw: It sounds like unintelligible rubbish!

Hon. J. NICHOLSON: Exactly. If the man is articled and fails to pass the examinations within two years, what will happen?

Hon. C. F. Baxter: He will go on the land.

Hon. J. NICHOLSON: There is no explanation provided in the Bill.

Hon. A. Lovekin: I cannot put you right just now, but you can move an amendment in Committee.

Hon. J. J. Holmes: He will not get the chance.

Hon. J. NICHOLSON: I have no hesitation in voicing my opposition to the Bill. Frankly, I would consider any wise proposal introduced in this Chamber. I would give such a proposal the serious consideration it deserved, but the Bill is so unwise and devoid of principle that I trust hon. members will realise that they should refuse their sanction to the second reading.

Hon. J. J. HOLMES (North) [5.43]: A very few words will suffice to define my attitude regarding the Bill.

Hon. A. Lovekin: Don't you condemn the Bill, too!

Hon. J. J. HOLMES: When I walked into the House on Thursday evening and found Mr. Lovekin in charge of the Bill, I was more than surprised. I have endeavoured to realise how it came about. I came to the conclusion that there was no one else on his side of the House who would move the second reading of the Bill. I cannot conceive of any hon. member associated with the Labour Party sponsoring a Bill of this description. No matter how simple a trade may be, they insist upon a person serving a certain period of apprenticeship before he reaches the top. Thus I realise why no Labour member in this Chamber would move the second reading of such a Bill. Take the case of an engine-driver. It is insisted that in order to qualify he must first serve a certain period as a cleaner before he is permitted to drive an engine. Then after that period elapses he is allowed to drive a shunting engine. After another period he is permitted to drive an engine attached to a goods train, and after a still further period he is allowed to drive the engine on a passenger train and finally an engine on an express train, and he has to pass an examination at each stage. I see now why it is that Mr. Lovekin is supporting the Bill. It is because hon. members, holding the views they do on minor trade matters, cannot hold different views on subjects of such importance as the necessity to qualify in order to act for people and to protect the lives of people and property. Mr. Lovekin is endorsing a Bill which removes the safety that I think is very necessary in connection with the legal profession, or at all events, a safety that is just as necessary in that as in the medical profession. We live in the day of specialists. A man must be a specialist if he is to succeed. Surely in connection with the legal profession we require specialists and they can only be got by the experience which teaches. If a man without capacity slips through into the legal profession, as the Bill intends he shall do, then later on when that man comes to deal with life and property, we shall probably realise—if the Bill passes—that we made a mistake. Mr. Lovekin interjected that if the Bill passed we would increase the business of the lawyers. Surely that is an astounding admission. It is the very thing that this House wishes to avoid. It is in itself enough to justify us in rejecting the Bill. One other point: if we reduce the qualifications as it is proposed to do, then we shall find that any man who has been rejected in the Eastern States or elsewhere will be able to come here, remain for about six months and squeeze through. In which case we may set up conditions that will allow undesirable law students from other parts of the world to come here and perhaps prey upon the public all the week and pray on their knees on Sunday. The Bill does not justify our wasting any time on it when there are more important matters to deal with. I will vote against the second reading.

Hon. J. CORNELL (South) [5.50]: There has been some reference in certain places and it has been inferred here, that the sponsor of this Bill in another place has introduced it for material gain. I wish it to be understood that I am not a party to any such accusation as that, though I may say in passing that I intend to support the second reading. The sponsor of the Bill in the Assembly knows pretty well the opinion I hold of him, and I think I know the opinion he has of me.

The PRESIDENT: The hon. member need not refer to personal matters.

Hon. J. CORNELL: I am not one of those that believes that good cannot come out of Israel, though I do know that good can come from curious places. Good can also come out of——

Hon. J. Duffell: Dirty mouths.

Hon. J. CORNELL: Hardly that, but let us say curiously formed mouths. I add my meed of commiseration to the hon. member who has introduced the Bill into this House. Someone has said that he has taken it on here as a joke. I heard a lady the other day remark that she had a profound admiration for my friend Mr. Lovekin, but that he was a bundle of contradictions. As I have said more than once, I have never yet found him advocating or sponsoring anything in this House that he did not believe in. He is a fairly good sponsor and a fairly forcible one also whenever he takes up anything.

Hon. J. M. Macfarlane: Do you think he believes in this Bill?

Hon. J. CORNELL: I do, though I do not say that he believes in all that has been set forth in it. I take it that the object of the Bill is to give Parliament an opportunity of saying whether or not entry to the legal profession can be had without reducing the standard of the profession as we know it to-day. That is an object to which I think all members should subscribe. Is it reasonable to assume that the liberalising of

examinations, or modifying the procedure to be adopted when endeavouring to enter the profession is likely to come from within the profession? I have yet to learn that that is ever likely to happen in connection with the legal or any other profession. We know that all reforms invariably come from without. The Bill gives us an opportunity to calmly and dispassionately say whether or not we can liberalise the law governing admission to the legal profession without injuring the structure, and if the House will permit the Bill to get into Committee there will then be an opportunity for Mr. Nicholson to make any amendments which his experience and wisdom may suggest.

Hon. J. Nicholson: You cannot make amendments to this Bill.

Hon. J. CORNELL: The hon. member can move to insert new clauses. It has been said by a learned member of the profession in another place that an alternative to the proposal contained in the Bill is a Chair of Law at the University. In my opinion we are a long way off a Chair of Law; there are many obstacles to be surmounted before we can bring that about. Since I have been a member of this House I think that all the laws governing professions, with two exceptions only, have been amended by Parliament, the two exceptions being medicine and law. Of course if amendments are not necessary we can only conclude that the law governing those professions is in a state of perfection. But on making comparisons between the proposals set forth in the Bill and what is contained in statutes elsewhere, we find that the proposals square with what exists elsewhere. Other States have modified their laws, and citizenship has not suffered in any way. With all due respect to the legal profession, and I hold a very high opinion of the members of it, we find that some of the provisions contained in the Bill exist in the other States and that some of the judges were drawn from the ranks of those who obtaned admission in circumstances similar to those the Bill proposes to bring about in this State. We are aware that the Speaker in another place qualified by reason of his having been an articled clerk, and secured admission by virtue of the articled clerk provisions in the Act. I will not go any further on that point for fear that I may tread on dangerous ground. I can give two other illustrations. One rose to be Prime Minister of Australia, and the other became Premier of New South Wales. Both gentlemen were circumstanced similarly to our present Speaker, having been articled clerks. The provisions governing articled clerks can be applied in two ways, and so we have the articled clerk who does the work and the articled clerk who does not do the work. The one who does not do the work can get through only because of his possessing emoluments from some other source, while many brainy youths not so fortunately placed are denied a similar opportunity. I intend to vote for the second reading on the broad principle that it will give an opportunity to consider amendments to the principal Act.

Hon. A. J. H. SAW (Metropolitan-Suburban) [6.1]: As reference has been made to the question of establishing a Chair of Law at the University, and as I am particularly interested in that, and also in the legal profession because of its being a sister profession to my own, I cannot allow the Bill to pass without offering some remarks. I deprecate the introduction of such a measure, which is calculated to lower the status and knowledge of members of the legal profession. I am not one of those who make light of the legal profession. With some people the members of this profession are considered fit subjects for jest and contumely, but undoubtedly they perform a very high work for the citizens of the State. A good lawyer is often the means of stopping litigation and settling disputes without recourse to the courts, while from the profession are drawn members of the bench who have to decide the most important issues that can affect a community. Their capacity for good is almost as great as that of the best doctor, and likewise their capacity for harm may equal that done by a bad medical practitioner. Consequently, I view with the utmost suspicion any measure tending to lower the stafus of the profession because, if it does that, it will undoubtedly lower the type of men who gain admission thereto. I am entirely opposed to the Bill because it will have that effect. Mr. Lovekin spoke of the barristers in England, and the fact that they eat their dinners seemed to afford him a certain amount of amusement. But that is merely a way of keeping term, just as when I was at Cambridge we had to eat dinners in college to show that we were there. The barristers, however, also have their examinations. I was astonished to hear Mr. Lovekin say, in reply to an interjection, that no examinations were necessary. A preliminary examination is necessary and also an examination at the end of their time. Whatever the system may have been at some remote period when the examinations for admission to the Bar were not so stringent as they are to-day, there have always been examinations. When I was at Cambridge the students taking their LL.B. degree used to go down and eat dinners, and they were excused from a final examination on account of having taken the degree of law. The others had to pass an examination. Although that system may appear to be haphazard, it has produced some of the best lawyers we have had, as Mr. Nicholson has indicated. I fancy the present Chief Justice of Victoria, Sir William Irvine, qualified in that way. I know that my friend the Chief Justice of South Australia, Sir George Murray, qualified in that way, and I believe the same ap-

plies to Sir Robert McMillan. I understand Mr. Pilkington qualified in that way and he was one of the brightest ornaments the Bar in Western Australia has had. Therefore I cannot see what purpose can be served by disparaging admission to the legal profession by means of the Bar and the Inns of Court in the Old Country. Mr. Lovekin also said he did not see why only those born with silver spoons in their mouths should be admitted to the profession. There are men practising here to-day who were not born with silver spoons in their mouths, but who entered the profession in the proper way. The same applies to various members of the medical profession, who had a very strenuous time in other walks of life getting together the necessary means to enable them to pursue their studies. I am glad to say such men have made good, and to-day occupy some of the foremost positions in the State. I know of other men who qualified for the medical profession and not as a result of having been born with silver spoons in their mouths. One man practising in Perth, while at the University, earned sufficient money by going harvesting and lumping during the vacations to carry on his studies, and he to-day is occupying an honourable position. Where there is a will to succeed, and behind it the requisite talent, any profession, legal or medical, may be entered. But this Bill proposes to provide a much easier method of qualifying. Anybody over the age of 30 may dispense with the preliminary examination. Why should a young man, because he has reached 30, not have to show that he has had that degree of education which is so necessary if he is to become a member of the legal profession? It is not difficult for a man of the requisite ability, even though he may have forgotten his school subjects, to spend a short time with his text-books brushing up his memory, and thus reviving the knowledge that will enable him to pass the preliminary portal that admits to the legal profession. The present Speaker entered the profession in that way. He did not wish to have any hurdles knocked down for him but took them in his stride. If any member wishes to enter the profession, let him brush up his school knowledge and if he has the ability he will find little difficulty with the preliminary examination. In the last two years we have been trying to get a school of law at the University. That is the proper portal for the admission of solicitors or barristers. Let us have a school of law at the University with a professor and lecturers to deliver the requisite lectures. It would not be a very expensive matter, and then anyone who liked to qualify for the University by passing the matriculation examination could take his degree in law and, after serving a not very lengthy period as an articled clerk in a lawyer's office—I imagine one or two years would be sufficient—could then become a fully qualified solicitor. It would be a pity to do away with the provision, requiring service as an articled clerk. In the legal profession it is the equivalent of apprenticeship in the trades. It would be folly for any tradesman to pretend that he had a thorough knowledge of his work if he had merely passed an examination, and had not had experience of the practical work. I believe it is necessary for a law student to enter a solicitor's office and acquire the knowledge that can only be gained through being articled to a solicitor. Another provision in this Bill seeks to make the examinations easier by permitting the candidate to take the different subjects piecemeal. That would be a pernicious system, and would undoubtedly lend itself to cramming. It would be the easiest thing in the world for a candidate to cram up one subject at a time, and, without possessing the requisite ability, pass the examinations and thus become qualified as a solicitor. This provision I consider to be as great a blot on the Bill as is the proposed abolition of articles. At one time the medical profession had a system of apprenticeship, but though it has been abolished medical students now take their course in very much the way I suggest for the legal profession. This is by means of medical schools or a university, and then after the medical student has done his practical work in the wards of a hospital —this corresponds to the training the budding solicitor would get in a solicitor's office—he, after passing his examinations, becomes qualified. But medical students are not allowed to take their subjects piecemeal. It is true that in certain universities candidates who fail in only one subject are allowed to sit for that subject, but I know of no system under which a student passing in only one subject may have that credited to him and have it excluded from the subsequent examination. This would be a most pernicious system to adopt for candidates qualifying for a profession. Although I oppose the Bill, I am not altogether sorry it has been introduced, because the question of legal education has received some ventilation both here and in another place. I hope the result of the discussion will be that the movement to establish a Chair of Law will receive a bigger fillip.

Hon. J. Nicholson: Hear, hear!

Hon. A. J. H. SAW: I am glad to hear that endorsement from Mr. Nicholson. We have received some support from the members of the legal profession but not that whole-hearted support to which we were entitled. I understand they are now all unanimous that a Chair of Law should be established at the University and I hope we shall receive not only their sympathy but some practical and pecuniary support. Twice we have approached the Premier, first Sir James Mitchell and then Mr. Collier, but neither of them in the present

state of the finances could see his way to accede to our request. I do not despair of having a Chair of Law before long. I think it is certain to come within a few years, and I hope the legal profession will recognise it as the proper portal through which legal practitioners shall enter. I hope this Bill will not pass, because it will undoubtedly tend to sprag the wheels and prevent the establishment of a Chair of Law at the University.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. T. MOORE (Central) [7.31]: I support the second reading of the Bill. The legal fraternity are represented in this Chamber, and I am surprised that one so well qualified as their representative could not discover any good principle in the measure. A man of such standing should not have permitted so much heat to be engendered by the discussion. Were I in a like position, were I one of the class which has legislation specially prepared for it, I think I would be modest in my references to that legislation. I was also astonished at mention being made of the author of the Bill.

Hon. J. Nicholson: I never said a word about him.

Hon. T. MOORE: I hope members of this Chamber will rise above personalities.

Hon. J. W. Kirwan: The name was mentioned by the supporters of the Bill, not by its opponents.

Hon. T. MOORE: Later it was mentioned by others. The principle of reviewing the author of legislation instead of the legislation itself, is a new one in this Chamber, which sets itself up as a House of review. Then there was the astounding statement of Mr. Holmes that he considered Mr. Lovekin was handling the Bill because no member of the Labour Party would handle it. If the hon. member read what took place in this connection in another Chamber—and I believe he does read the accounts of proceedings there—he will know that the Bill had the support of the entire Labour Party. When misleading statements are made here, I shall always rise to correct them, as I do on this occasion. Speaking here on the education question, I stated that very often we lose that talent to which Mr. Nicholson referred, by reason of young boys being taken away from school just when they are on the point of gaining their leaving certificate. Frequently such boys have to go out to earn not their own living, but the living of widowed mothers; and we should make it as easy as possible for bright boys with talent to enter the legal or any other profession. Talent is a thing which no amount of education can bestow, and therefore we should encourage it wherever and whenever it makes its appearance. Thus there is a principle involved in the Bill, the principle that bright boys who have to go out to earn their living shall have the same opportunity as dull boys whose parents can afford to keep them at school until they pass the matriculation examination. Possibly a dull boy is kept at school by indulgent parents until he is 20 or 23 years of age, and then matriculates. The examination is one that is passed by many bright boys at the age of 16. I have known cases of both kinds during my own school days. I have seen dull boys continued at school almost indefinitely by well-to-do parents, which of course is only to be expected. Of two such boys, one might have been a good ploughman, while the other would have been a brilliant lawyer. There are cases of young men encouragd by their parents to study for such lengthy periods that at last they do pass, though only meagrely. Dr. Saw said that hitherto the legal fraternity, who according to Mr. Nicholson are always seeking talent, have not assisted the University to set up a Chair of law, though to-day they are ready to help. Why the change? A section of the people, thanks to the present discussion, understands the reason. The Bill, according to Dr. Saw, has moved the legal fraternity. Therefore it has already done some good, despite Mr. Nicholson's inability to find any good whatever in it. Now, a time comes when the bright boy who has to leave school early finds that he has no outlook, possibly having gone in for hard work as a hewer of wood or a drawer of water. Such a youth is apt to say to himself, "I must study, so as to advance myself;" but he has not either the means or the opportunity, and thus he is prevented from becoming articled. According to the Bill, the consent of the Barristers' Board must be obtained by an articled clerk before he can do anything else. The Barristers' Board set themselves up as autocrats. They say "You shall be an articled clerk, but you shall not use any other talent you may have in any other direction." They are autocrats indeed.

Hon. J. J. Holmes: They are not the only autocrats in the community. What about the Trades Hall?

Hon. T. MOORE: When certain hon. members are hard up for an argument, they always say, "What about the Trades Hall?"

Hon. J. J. Holmes: What about the bakers' case at Victoria Park?

Hon. T. MOORE: After all, the very men we want to encourage are those who have had a fairly good schooling but were compelled to leave before matriculating. Everyone knows of such cases, where the boy was at the top of the school when he left. Assuredly no obstacle should be placed in their way when they seek to advance to a higher sphere in life. The Bill proposes to give such bright young fellows a chance to enter the legal profession. I hardly think that any hon. member is opposed to the principle involved, though the wording of the Bill may admit of improve-

ment. It should not be our object to try to push along the dull person who is enabled to study until he becomes something in the way of a barrister or soicitor. Let us assist the bright boy who has not had the advantage of tuition in his early stages. It has been alleged that the effect of passing the Bill will be to lower the standard of the legal profession. Members who make that allegation can only have read the Bill, and certainly cannot have read the parent Act. The Barristers' Board will remain in control if this measure passes, and they are not likely to admit any candidate who is not proficient. After the passage of the Bill the Barristers' Board will still have power to amend their rules in any way they please, and will still have the final say. If hon. members wish to review the Bill, they should not look only at the Bill but should also look at the Act. Then they will be enabled to draw conclusions whether as the result of this measure being enacted the standard of the profession will be lowered. Again, Mr. Nicholson has urged that the Barristers' Board do not examine, but merely appoint examiners. That is news to me, not being familiar with the procedure by which one becomes a lawyer. The hon. member says that they put on examiners. Therefore I feel assured that every precaution will be taken to see that no incompetent person is allowed to pass. Nevertheless the hon. member says we have to be very careful. I do not know what more care he could wish for than that the Barristers' Board should still have the final say, as they have to-day. At present we are losing bright young talent.

Hon. A. J. H. Saw: Help him on by a series of scholarships, as in all other civilised countries.

Hon. T. MOORE: That is one way. But it has never been brought in before.

Hon. J. Nicholson: Scholarships are in existence now.

Hon. T. MOORE: In any case, what good is a scholarship to a young man who has to keep his widowed mother? The scholarship will not maintain his dependants for him. I am speaking of a young fellow who becomes the head of the house early in life. Even Dr. Saw has met such people. I want him to think of them.

Hon. A. J. H. Saw: This Bill will not enable such a young man to get through.

Hon. T. MOORE: Yes it will. It will allow him to study, and at the same time earn money by working. So it will materially assist him. I hope the House will take the Bill as they find it, and will forget its sponsor. If there is in the Bill anything wrong, let us amend it in Committee. Then we shall find it is not so awful a Bill as Mr. Nicholson would have us believe.

Hon. E. H. GRAY (West) [7.48]: I am informed it is possible for a young man to be sent to London, there to pass his examination and be admitted to the bar, after which he is free to return to this State and start practice at once.

Hon. E. H. Harris: Do you believe that?

Hon. J. Nicholson: He has to be here for six months first.

Hon. E. H. GRAY: Six months is nothing.

Hon. J. Nicholson: And he has to be admitted.

Hon. E. H. GRAY: The point is he has not to serve a long period of articles, as a poor man's son would have to do.

Hon. J. Nicholson: What about the Rhodes scholarship? That is open to everybody.

Hon. A. Lovekin: Not all can be Rhodes scholars.

Hon. J. Cornell: Many of our young solicitors are Rhodes scholars.

Hon. E. H. GRAY: It is not right that a wealthy man should be able to send his son to London, have him pass his examination and be admitted, then return here and, after six months, start practice. That is wrong, and is one of the reasons why I support the Bill. Mr. Holmes, in alluding to apprentices, did not draw a fair comparison. Many young fellows are apprenticed to a trade they do not like. That was my experience. We should give every encouragement to brainy boys to qualify for the professions. One could not learn to be an engine-driver after a day's work at bricklaying, nor could one in a factory learn to be a blacksmith. Under the Bill, with the 44-hour week, it will be possible for a young man who does not like his trade to devote his leisure to study, pass the necessary examination, and be admitted to the bar.

Hon. H. Stewart: But he will then be working more than 44 hours per week.

Hon. J. J. Holmes: Thousands of boys want to learn trades, but are not allowed to do so.

Hon. E. H. GRAY: That is only in the imagination of the hon. member. I support the Bill because it will give a fair chance to a poor man's son to qualify for the profession, if he has the brains.

Hon. J. W. KIRWAN (West) [7.52]: Mr. Moore was not quite correct when he said that the Labour Party in another place were unanimous in their support of the Bill.

Hon. T. Moore: I said almost unanimous.

Hon. J. W. KIRWAN: I know one member of the Party who voted against the Bill in another place, and I understand that others would have so voted had they been present. Also, incidentally I may recall that the Bill was carried in another place only on the casting vote of the Speaker. This is one of the Bills about which I have no difficulty as to my attitude. I intend to vote against the second reading. In that I am not influenced by a desire to protect the lawyers, nor by the

effects the Bill may have upon the young man who has not the time or money to qualify for this profession, nor even by the man, 30 years of age, who may have some difficulty about passing certain examinations. I will vote against the Bill in order to protect the public. A great outcry would go up if we were to allow unqualified medical men to experiment on our bodies in surgery or medicine, and I am sure it will be very injurious to the public if we allow unqualified men to represent themselves as fully qualified lawyers. The public will seek the advice of those men; and there is nothing so expensive as bad legal advice. In the interests of a large number of people who know nothing about the law, it is extremely desirable that we should not have lawyers who are not fully qualified; for it would only lead to litigation and heavy expenditure for people who cannot afford it. Well-to-do people can go to lawyers of high repute; but there may be members of the profession who are seeking business, and the advice they give may lead to disaster for private individuals. The main purpose of the Bill is to avoid the examinations required to be passed in order to ensure that the person who seeks to enter the learned profession has a reasonably sound education. Surely it is not too much to require that the applicant for admission to a learned profession should be able to pass the matriculation examination! All over the world the tendency is to restrict the number of entrances to learned professions, all of which are over-crowded. When I was a boy a medical student could get through and become a duly qualified medical practitioner with a little more than three years' study. Subsequently the period was extended to five years, and quite lately in the Old Country it has been extended to seven years. The tendency is to raise the qualifications necessary to enter a learned profession, not to open wider the gates. To pass the Bill would be a retrograde step, and one that would certainly injure the reciprocity at present existing between the legal profession in this State and the legal profession elsewhere. It has been said that a young man can go to England and without difficulty gain admission to the English bar. But in every case, before admission can be gained to either the English or the Irish bar, the applicant has to pass the examination that the Bill seeks to avoid. It is essential that before admission can be obtained, the applicant shall be a fairly well educated man. It has been said that the qualification consists largely of eating dinners. The eating of dinners is merely incidental in the student's career. He has also to pass an examination; and, be it remembered, one of the most difficult examinations in Great Britain to-day is that for admission as a solicitor. The examinations for the bar are not so difficult, for the reason that no barrister can be employed in England or Ireland except through the medium of a solicitor. The solicitor selects the barrister. So we have a highly qualified man who selects the barrister, and the barrister himself must be a man of very great ability before he can get much practice at the bar.

Hon. A. J. H. Saw: About 50 per cent. of barristers remain unemployed.

Hon. J. W. KIRWAN: There is a large number of briefless barristers who are educated man. The law examination they may have had to pass may not have been exceptionally stiff, and is not stiff in comparison with that which solicitors have to pass, and is, therefore, spoken of as a trivial matter; but they have had to pass examinations that are here sought to be avoided.

Hon. H. STEWART (South-East) [8.0]: Mr. Lovekin seems to consider that the main reason for the Bill is to provide for people "who were not born with a silver spoon in their mouths." He made a point of its being desirable to relieve people of 30 years of age from passing the matriculation examination. Mr. Kirwan pointed out it was desirable that all members of learned professions should have passed that standard of education which would entitle them to be termed educated men. That is a very liberal interpretation to place upon the mere passing of matriculation, and this would be regarded as a low and unsatisfactory standard in the case of any candidate for one of the learned professions. The passing of an examination, simple or otherwise, is no guide as to a man's education.

Hon. A. Lovekin: That is the point.

Hon. H. STEWART: A man who has had no education may be more highly educated and cultured than one who has passed the highest examination, but we are not considering that phase of the question. I was very much struck by Mr. Moore's remarks. He said he was voting for the Bill because he believed in the principle contained in it. He thought the principle was that the child of parents who could not afford to help him to be educated should have the freedom of opportunity. It is impossible to say that this is the principle involved in the Bill. In most countries of the world youths have freedom of opportunity and can profit by the talents they possess. For the last quarter of a century the bright intellects of Australia, by a system of scholarships, have often been able to attain the highest positions in the land, and go through the highest courses of training for any of the professions. In practically every profession there are instances of this kind, showing that in spite of the inability of their parents to help them men have come to the fore. Mr. Moore said there were many instances of bright intellects having been denied the opportunity of proper training and thus being of service to the State. If he had said these were exceptional cases, we might have agreed

with him. In legislating for the State we cannot legislate for exceptional cases. If no better system can be devised of determining who are the bright intellects amongst the boys of the community other than by examinations, then that is the method of ascertaining who shall receive assistance by means of bursaries, scholarships and exhibitions, etc. This Bill seeks not only to remove the protection so necessary to the public, but seeks to remove that protection which is necessary for everyone who aspires to join the legal profession. In most countries more people qualify for professions than is desirable, and if we lower the standard in this case the tendency will be to increase the number of those who enter it. Many highly qualified men elect to enter a profession that is already overcrowded, and find it difficult to eke out an existence, whereas if they had bent their faculties in other directions it might have been much better for their own happiness and for the community.

Hon. A. J. H. Saw: This Bill will tend to flood the profession.

Hon. H. STEWART: Yes. So long as there are enough legal practitioners to serve the requirements of the public no advantage can be gained by overcrowding the profession. There are many avocations in the pursuit of which men have to engage in a great deal of mental application in the early stages. It is necessary, in order to weed out those who are not really fitted to follow a certain profession, that they should be subjected to increasingly difficult examinations from time to time. In the case of dentists, architects, and members of the Civil Service, people are subjected to a test with the object of persuading those, who are not mentally qualified to reach a high standard, to devote their attentions to some more remunerative undertaking. A considerable proportion of young men who pass their matriculation from school and go on through the university into the various professions are scholars from secondary schools.

Hon. E. H. Gray: Others cannot afford that.

Hon. H. STEWART: That is not the question. Many men who occupy the highest positions in the land have been State School scholarship boys, and by passing from the primary to the secondary schools, and on to the university have paved their own way to advancement. I know of a judge of the Supreme Court who was at a secondary school with me in Victoria, and I also know of two professors in India, the father of one of whom was a sanitary contractor in a suburb of Melbourne, and could not assist his son in any direction. I could quote numbers of instances of men who have risen from very humble circumstances to the highest possible positions in Australia.

Hon. J. Nicholson: A judge in Queensland rose to the position from the occupation of a carpenter.

Hon. H. STEWART: The reasons given by members who are supporting this Bill are not based on good grounds. They are risking the welfare of citizens who may have business with legal practitioners if they bring about the admission of men who are not properly qualified. Mr. Lovekin said that a man of 30 should not be expected to pass an examination, and asked how many members of this Chamber could do so. He was following a wrong line of thought. To suggest that because members could not pass their matriculation is no argument in favour of supporting the Bill. If a man thought of entering the profession he should, by attending the technical school at night and by solid application, be able to pass his matriculation long before he had reached the age of 30. Mr. Lovekin has overlooked that point. I know of men who left the secondary school after passing their matriculation and later on decided to go through a university course in order to study for the medical, engineering or other profession, after having been away from study for many years. Several of these men now enjoy big practises. I have known of a man over 40 years of age studying for the highest accountancy examination in Victoria. When legislating regarding architects and dentists, we have always provided for the protection of the public and of the aspirants for admission to those professions, setting out that in the early stages they shall prove that they are up to a certain standard. The Bill would enable subjects to be dealt with piecemeal and Dr. Saw, in dealing with that phase, drew attention to one aspect that should not be lost sight of. If a man were enabled to cram up one subject before dealing with another, he could forget all about the first while cramming for the second. If a man desires to enter any profession that necessitates a university course, he has to pass each year in three or four subjects. It is recognised that the individual must do certain work within a given period and if the individual has not the necessary mental equipment, he cannot get through. My experience goes to show that the lad possessing a bright intellect will not be lost to the community, but will succeed. He needs no farther encouragement in comparison with those who may be born with silver spoons in their mouths and whose parents may be able to keep them at the university year after year. The Bill has been conceived on quite mistaken grounds; it has been represented in this House on mistaken grounds. Mr. Gray and Mr. Moore have been misled into thinking that provision has been made for greater opportunities and facilities for people who have financial advantages. It does not matter how much money a man may have, if he cannot do the work necessary to qualify himself, he will not be in a position to compare favourably with those possessing better mental equipment. In all professions, such as the legal, engineering, and similar avocations, brains will tell and brains are wanted. To-

day there is a man known throughout the Commonwealth who passed through the State schools and by means of scholarships went on to the secondary schools and the university. I refer to Sir John Monash. He took his Bachelor of Arts degree and then went on with his engineering course. He secured the degree of Bachelor of Engineering and later secured the degree of Master of Civil Engineering at the Melbourne University. In those days the Melbourne Metropolitan Waterworks Board allowed the two students who topped the list and gained their Bachelor of Engineering degree, to join the board to gain engineering experience, for which they were paid £50 per annum. Since that time the board have slightly increased that payment to engineering students. Subsequently Sir John Monash established himself as a contractor's engineer and later he set up in private practice. He then conceived the idea of qualifying for the legal profession and he is now a Bachelor of Laws. I am not sure that he has not his degree of Master of Laws. His idea was that legal qualifications would assist him in his experience of arbitration work. That man who led the Australian army in the Great War, rose by force of his own intellect until to-day he is chairman of the Commission controlling the great Morwell scheme in Victoria.

Hon. A. Lovekin: He was able to seize his opportunities!

Hon. H. STEWART: The inference to be drawn from Mr. Lovekin's interjection is that he desires the Bill to be passed to assist the man who is unable to seize his opportunities. That is enlightening for the House and is not likely to gain for Mr. Lovekin increased support for the Bill. It is unnecessary to add much more regarding the Bill. There is one point, however, that I would like to mention to Mr. Lovekin, who has sponsored the Bill in this place, and to the hon. member who introduced it in another place. Section 13 of the parent Act reads as follows:—

> No articled clerk shall, without the written consent of the board, during his term of service under articles, hold any office or engage in any employment other than as bona fide articled clerk to the practitioner to whom he is for the time being articled, or his partner; and every articled clerk shall, before being admitted as practitioner, prove to the satisfaction of the board, by affidavit or otherwise, that this section has been duly complied with.

That section could easily be modified in the interests of aspirants to the legal profession because it specifically sets out that a man shall not be allowed to do any outside work when he is serving his articles, except with the permission of the Barristers Board. I can conceive that such a provision may easily lead to hardships and delays. In Victoria men who had secured their Bachelor of Laws degree, engaged in coaching and in some instances undertook the law reports for the "Argus." That is a desirable thing to do.

Hon. A. Lovekin: At present those people are debarred from doing outside work.

Hon. H. STEWART: That is why I suggest that an amendment along those lines would be desirable.

Hon. J. J. Holmes: It is no use suggesting any amendments. The unions outside will not allow that to be done.

Hon. H. STEWART: In Australia, if a lad has backbone and determination, there are ample opportunities for him to progress and attain his desires. In Western Australia, for instance, a lad could go to the North-West and put in a few seasons at shearing and thus raise sufficient money to enable him to go through a university course and qualify for any profession he might desire to enter.

Hon. W. H. Kitson: He would be lucky if he acquired any money at shearing.

Hon. H. STEWART: If the lad went there and desired to spend his money in horse-racing, lotteries, owning motor cars, and attending picture shows, and so on, naturally he would not be able to save any money, but if the lad had ambition and aspirations, he would gain mental knowledge while earning his living at shearing.

Hon. W. H. Kitson: He would not get the money.

Hon. J. J. Holmes: He could go to Wyndham for five months and earn £300.

Hon. H. STEWART: And during the remaining part of the year he could remain south and proceed with his education in Perth. In these circumstances, although in accord with the principle that everyone should have freedom of opportunity to attain any position in the land, I think there are plenty of facilities already available. At the same time I do not consider that the monetary value of scholarships granted by the Government represents two-thirds of what it should be. At present the value is not sufficient to pay the expenses of a secondary school education. Instead of endeavouring to provide a mediocre training for a large number of youths and girls, it would be better to increase the value of scholarships and encourage the bright individual to go through and attain to the higher positions. It is not desirable to do away with the preliminary examinations in connection with the legal profession, more particularly as this will enable the authorities to cull out those whom it would be a kindness to prevent from entering into such a profession.

Hon. W. H. KITSON (West) [8.30]: I support the Bill. I cannot agree with the previous speakers who claim that there is no principle involved in the Bill. It seems to me there is a very important principle involved in it and it is that everyone should have the right to aspire to become a legal practitioner in Western Australia irrespective of the financial position of himself or his parents. Instances have

been quoted of what can be done by the man possessed of mental equipment. I also know that while those men can be pointed to as having been successful, there are many more who have just the same mental equipment but who have not had the opportunity to qualify. We talk about scholarships, and the opportunity that every boy has by means of a scholarship to attain a certain position. That might be all right if the scholarships were unlimited in number, but as pointed out by Mr. Cornell, only the other day no fewer than 900 students sat for 50 scholarships. I do not suggest that all the 900 should have been awarded scholarships, but I venture the opinion that after the first 50 were selected, there would be very little difference between them and the next 50. The probability is that the second 50 would have no further opportunity of taking advantage of the scholarship system. That being so, it becomes necessary for the 50 to do something in the way of finding an avocation that would be suitable to them according to the mental equipment they possessed. In certain individual cases there may be a later opportunity, at perhaps the ages of from 25 to 30, of taking the necessary course to permit of their qualifying for one or other of the professions. No profession should be limited to a person who has been able or who has had the opportunity to pass a preliminary examination, as he has to do at the present time in this State if he desires to become a legal practitioner. The final test is not whether a person can pass the preliminary examination, but whether he can pass the intermediate and final examinations. If the provision contained in the Bill is put into effect and the Barristers' Board were to appoint examiners to test those particular men, no one could quibble at the decision that might be given. If the students who sit for those examinations are capable of passing with honours, what does it matter whether or not they pass the preliminary? How often is it necessary while following a profession to refer to the subjects that were included in the preliminary examinations? There are many men in this State who have never passed the preliminary examination or in fact any examination at all, but who by virtue of the general training in commercial matters or in journalism or in accountancy, have a wider knowledge than some of the professional men. It has been said by a member here that whenever a man does not pass his preliminary examination he is a mediocrity. That is distinctly unfair.

Hon. A. J. H. Saw: Who said that?

Hon. W. H. KITSON: The hon. Dr. Saw.

Hon. A. J. H Saw: On a point of order. I made no such remark. If the hon. member likes to refer to the particular passage in the "Hansard" report he will see exactly what I said. What I did say was that this measure would open the flood gates to mediocrity.

Hon. A. Lovekin: That is what you said.

Hon. W. H. KITSON: I withdraw the statement; I misunderstood the hon. member. But what is the difference between the statement I made and the statement made by the hon. member. He said that if we are going to allow men to qualify for professions without passing the preliminary examination, we open the gates to mediocrity.

Hon. A. J. H. Saw: I was referring to the clause in the Bill which provides that they are allowed to take these subjects piecemeal.

Hon. W. H. KITSON: I will accept the hon. member's explanation. I was rather surprised to hear the remark passed by him, and was rather surprised to think that he inferred what I took him to infer. However, I accept his explanation. In any case, we are in this position, that it is possible for a young man possessed of money to be a mediocrity at school in this State, to be sent to the Old Country, to pass his examinations there no matter how long it may take him to pass them, to do certain other things, and then to return to this State and after having been resident for something like 12 months, to be admitted to practise at the Bar.

Hon. J. J. Holmes: Does that happen?

Hon. W. H. KITSON: Several are practising here to-day who followed that method in order to be admitted to practice in Western Australia. While that obtains it is giving an unfair advantage to one section of the community. We have just as good intellects amongst the sons of the working people in this State as there are amongst the sons of those who may be classed as the upper ten.

Hon. J. Nicholson: But a man can pass here and then go to England and practice there.

Hon. W. H. KITSON: That may be so. At the same time it is necessary that he should be articled, and he must pass his preliminary examination, and then after serving five years——

Hon. J. Nicholson: Just like an ordinary tradesman.

Hon. W. H. KITSON: Compare that with the position of a young fellow who may be a mediocrity here, and who is sent to the Old Country and there passes his examinations without being articled, and returns to this State. Then because he has passed his examinations in the Old Country, he is admitted to the Bar here after a few short months of residence.

Hon. A. J. H. Saw: He goes through a course of training in the Old Country.

Hon. A. Lovekin: He does it in three years instead of five.

Hon. W. H. KITSON: We are penalising the youth of this State simply because we have not a chair of law at the Univer-

sity. The Bill, if passed, will give the youth of this State who is not able to afford what others can afford, the opportunity to qualify for the legal profession. I agree that those who enter this profession should be possessed of a little more than ordinary education. The standing in the community is high, and it is necessary that they should pass some educational test, but it is not essential that they should pass a preliminary examination in addition to the intermediate and final examination.

Hon. J. Nicholson: Are you not aware that the Bill is doing away with the preliminary examination?

Hon. W. H. KITSON: Yes, and being aware of it I am supporting the Bill.

Hon. J. Nicholson: And still you say that a man should have some educational standard.

Hon. W. H. KITSON: That will be provided by the intermediate and final examinations. No man will be able to pass those two examinations unless he has a good general knowledge and a good education, something above that of the average individual. It has been said that the present Act is a protection to the public. I doubt whether it is any more protection to the public than the Bill would be if it became law. It is possible to approach two legal practitioners and to get entirely opposite opinions.

Hon. A. Lovekin: And from one you can get two opinions sometimes.

Hon. W. H. KITSON: It was put to me a short while ago that you could go to a practitioner in this State and get an opinion, and then on arguing the point with him and showing him where he was wrong, he would change his opinion and still charge for it. I am in agreement with Mr. Stewart who said that a certain mental standard was required.

Hon. J. Nicholson: You will not improve the position by lowering the standard.

Hon. W. H. KITSON: It is not increasing the standard or necessarily maintaining it by insisting that a candidate for admission to the profession should first of all pass his preliminary examination. Neither do I think it is necessary that he should serve five years as an articled clerk. There are some men in Perth of such general knowledge and education that very little tuition would be required to enable them to pass the intermediate and final examinations, although it might be very difficult for them to pass the preliminary examination. We should make provision for such men if they desire to be admitted to the profession. Instead of making it a close corporation, we should provide that the brightest intellects of the community might have the right to enter the profession, provided they are capable of passing the intermediate and final examinations.

Hon. H. Stewart: But not the preliminary examination?

Hon. W. H. KITSON: The passing of those two examinations would show that they had a sound knowledge of the things considered by the Barristers' Board to be necessary for a candidate. I hope the House will pass the second reading so that men who cannot afford the necessary education early in life may later on have an opportunity to enter the profession.

Hon. A. LOVEKIN (Metropolitan—in reply) [8.47]: It has been suggested that I introduced the personal element. I did so because when I undertook to sponsor the Bill, I knew there would be some prejudice against the gentleman who had proposed it in another place. As there was no ground for suggesting that he would personally gain anything from the Bill whether it passed or not, I thought it right to mention that fact and ask members to deal with the Bill upon the principle it contained.

Hon. J. Nicholson: I did not refer to his name.

Hon. A. LOVEKIN: No, and I do not think any other member did, but I did in order to disarm members on that score, because I did not want any personal references made. I wanted the Bill dealt with on the principle it contains. The principle is a simple one and I am surprised to find so many members opposing it. Boiled down it is this: "Are we in a country such as this prepared to give all men, whether the sons of millionaires or the sons of paupers, equal opportunity to rise on the rungs of the ladder?"

Hon. J. W. Kirwan: That is not the principle at all.

Hon. A. LOVEKIN: Members can twist it as much as they like; there is only one principle.

Hon. J. Nicholson: The principle is to do away with the preliminary examination.

Hon. A. LOVEKIN: I shall come to that.

Hon. J. J. Holmes: The principle is to give someone the right to deal out bad law.

Hon. J. W. Kirwan: To abolish the education test.

The PRESIDENT: I ask members to allow the speaker to make his reply without interruption.

Hon. A. LOVEKIN: In reply to Mr. Holmes, is the person who will pass these examinations in two years likely to be more capable than the person who wants five years to pass them? Which person is the more likely to deal out bad law, the person so slow that it takes him a fair percentage of his life to pass in the rudiments of law—because that is all that the examinations amount to—or the person who in two or three years can pick up the whole thing and pass with credit?

Hon. J. J. Holmes: Why not make it two or three months?

Hon. A. LOVEKIN: Are we all of equal capacity? Will not some of us acquire knowledge more rapidly than others? Why keep back the fast to the pace of the slow? The hon. member talks about the Labour Party. This is the very thing he com-

plains about in them. It is the go-slow policy; no man must get ahead of his neighbour.

Hon. A. J. H. Saw: This is a go-quick policy.

Hon. A. LOVEKIN: Members are complaining of the go-slow policy, and yet they say to legal candidates, "Go slow; you must have five years' articles. If you can get through in three years it makes no difference; you must go slow." I am surprised at Mr. Holmes especially.

Hon. J. Nicholson: What about the fable of the hare and the tortoise?

Hon. A. LOVEKIN: The tortoise was a long way behind. The Bill contains that one principle which every member should support. However much they may modify the Bill in Committee, that principle should be supported in this House.

Hon. H. Stewart: But that principle exists only in your imagination.

Hon. A. LOVEKIN: Then I am sorry for the hon. member. The principle of this Bill should be quite apparent.

Hon. A. J. H. Saw: But in three years you are picking it up wrongly.

Hon. H. A. Stephenson: Sprinters are always expensive.

Hon. A. LOVEKIN: But they often win the races. Mr. Nicholson, quite true to the traditions of his profession, had really nothing to say against the principle of the Bill. He occupied most of his time with a lecture on myself. The personal element came in. The hon. member merely applied the doctrine, "When you have no case, go for the other side." He picked up the Bill, read a clause or two, and invited us to look at the principal Act and note the differences. This is probably an amateur Bill, but it is much better than a professional Bill because it is clearer. Mr. Nicholson quoted from Clause 3, paragraph (a) of the Bill:—

> That for the six months immediately preceding his application for admission, he has resided within the State.

The Act says—

> For six calendar months immediately preceding his application for admission he has resided within the colony of Western Australia.

There is not much difference. Paragraph (b) of the Bill says—

> That he is in every respect a person of good fame and character.

The Act says—

> Until he has satisfied the board and obtained from them a certificate that he is, in the opinion of the board, in every respect a person of good fame and character.

Mr. Nicholson says there is a great difference. I cannot see any difference except in favour of the Bill, which declares for a fact instead of accepting the opinion of the board. The other clauses are almost identical with the provisions of the principal Act. I do not wish to pursue the hon. member's references to the judging of a person's mentality by his epicurean tastes, but I certainly disagree with him when he says that barristers at Home have to submit to a substantial examination. I have been told by two gentlemen that it is necessary for the student to have matriculated. I admit that is some test, but as for the rest, the barristers at Home get through by going into some practitioner's chambers, reading law and attending the dinners during the term. It is suggested that attendance at dinners is insisted upon to ensure that the candidates are in attendance. If that is a test of qualification, it is a farce. Mr. Nanson left this State and went to England. I think he went to Gray's Inn, and he underwent no examination at all. He went into a barrister's chambers, ate his dinners, and was admitted to the bar.

Hon. H. Stewart: Did he have a silver spoon?

Hon. A. LOVEKIN: Yes, he had money to pay for it.

Hon. J. J. Holmes: He had experience with you in your office prior to that.

Hon. A. J. H. Saw: How many years ago was that?

Hon. A. LOVEKIN: Twelve or fifteen. Then we have the instance of Mr. Sanderson, formerly a member of this House, who went Home and qualified, returned to Western Australia, and was admitted to the bar. He is entitled to practise if he so desires.

Hon. A. J. H. Saw: How many years ago was that?

Hon. A. LOVEKIN: Just a few years ago.

Hon. A. J. H. Saw: About 20.

Hon. A. LOVEKIN: I think not. If the hon. member considers the date on which he was admitted an important point, he may have recourse to the court and get the exact day, but the actual date is of no importance. Mr. Holmes said we want specialists; we do not want scoundrels struck off the rolls in the Eastern States coming here and squeezing through in six months. If they are struck off the rolls in the Eastern States, they cannot be admitted here. If they are not of doubtful class, they can come here to-day and become entitled to be admitted in six months.

Hon. J. Duffell: We want to improve the stock.

Hon. A. LOVEKIN: Reference has been made to the Speaker in another place. I have known that hon. member for 30 years. He never had an opportunity to become a member of the bar until he was elected to Parliament. That gave him his opportunity. He was able to earn some money but it did not count, under Section 13 of the Act, which as Mr. Stewart has stated, says a candidate must not engage in any employment other than that of a bona fide articled clerk of the practitioner to whom he is at the time articled. He could not do any other work; but the work of a member of

Parliament is not counted as work, and so he was able, being a member and for some time a Minister, to enter upon his articles and carry through. Let the Bill go into Committee if hon. members are sincere. All the clauses of the Bill may be struck out in Committee, and a clause repealing Section 13 of the principal Act can be inserted. We can send the Bill back with that repealing clause.

Hon. A. J. H. Saw: Is the hon. member in order in saying that I am not sincere?

The PRESIDENT: I cannot hear what the hon. member says.

Hon. A. J. H. Saw: He said I was not sincere.

Hon. A. LOVEKIN: I did not say the hon. member was not sincere.

The PRESIDENT: I would ask the hon. member not to say anything offensive.

Hon. A. LOVEKIN: I said nothing offensive.

The PRESIDENT: Dr. Saw thought it was offensive.

Hon. A. LOVEKIN: Dr. Saw thinks so many things that are not correct. In this instance I did not suggest he was insincere. What I say is, that if hon. members are sincere they will pass the second reading of the Bill, and then they can, if they like, insert the suggested repealing clause. I think, however, that if we get into Committee on the Bill, we can support each and every one of the clauses. I am prepared to support an amendment repealing Section 13 of the principal Act. I think the repeal of that section would be a very good thing, for it does seem to me wrong that a man cannot work and at the same time endeavour to improve his position.

Hon. H. Stewart: Are you always sincere in voting on Bills?

Hon. A. LOVEKIN: I try to be. So far as I know, I have never voted against a Bill which I ought properly to have supported. It has been mentioned that an hon. member of another place had that opportunity which does not present itself to many, of being able to do his articles and at the same time hold a position which gave him some emoluments, thus enabling him to carry through his articles. That reference to the Speaker is not altogether in point as regards the case of a man such as the sponsor of the Bill, who has not had this means of livelihood until recently, but has had to work in the Government service in order to enable him to live. The two cases are altogether different. Now it is suggested that this Bill will open the door for the admission of the unfit. What are we doing? We are suggesting to omit for the time being the preliminary examination, the schoolboy examination.

Hon. H. Stewart: Which is so difficult.

Hon. A. LOVEKIN: It is not difficult at a time when the mind is in a different condition from that in which it is during one's later years of life. The hon. member answered his own argument, because he said that in his opinion examinations were of little use.

Hon. H. Stewart: I said nothing of the sort. I said that examinations were certainly not a final means of determining relative efficiency, but that they were a means of ascertaining the best brains during the process of education.

Hon. A. LOVEKIN: The hon. member said examinations were not a real test. I took down what he said. He added that the man unable to satisfy the educational test might still be a better educated man than one who could. That is how I grasped the hon. member's meaning. I agree with the hon. member that it is not the man who can successfully pass examinations that can be accounted as having the most knowledge and the most experience. We can go around this town and see many men who have passed with honours at universities and at law examinations, but whom one would not employ if one wanted a lawyer, because they lack the general knowledge and the requisite brain capacity. I suggest that the man who passes the preliminary and final examinations with three years' study, is a better man than the one who requires five years in which to pass them.

Hon. A. J. H. Saw: Wouldn't he be a still better man if he took five years over his course?

Hon. A. LOVEKIN: Yes, certainly he would; but that is not a comparison. I am comparing two people with one another, not one person with himself. The hon. member spoke of men who held high positions in this State and entered for the legal profession. Some of us know the great difficulty youths have had to get through even the preliminary examination. Why should we hold back on their account, because such conditions are said to be necessary for them, youths of greater application and better working capacity? Surely the person who is swift should be allowed to come somewhere near winning the race.

Hon. J. J. Holmes: You said this Bill would make more work for the profession.

Hon. A. LOVEKIN: No. I suggested that Mr. Nicholson ought not to object to the Bill if he thought it would make more work for the profession, if his contention to that effect were right. However, I say it would cause the slow men in the profession to go out in favour of the smart men who would come in. Who would then employ slow and stupid lawyers? That is what would happen, and not what the hon. member has suggested. That answers his point.

The PRESIDENT: Order! I must ask the hon. member to address the Chair.

Hon. A. LOVEKIN: Sir, I am addressing no one but the Chair. I am trying to address you, Sir; and I am sorry that I cannot make myself heard. I have answered the point which Mr. Kitson made with reference to Dr. Saw's remarks suggesting that the passing of the Bill would practically flood the profession with mediocrities. I suggest one can hardly say that people are

mediocrities who undertake to do in one year what somebody else needs three years to do. I do not wish to labour the question further, but I do ask hon. members to accept the underlying principle of the Bill, the principle which is intended. If hon. members do not think the intention is given effect to in the Bill, I can only ask them to be fair to those who, as I have said before, were not born with silver spoons in their mouths, fair to those who have ambitions in life, by making the Bill what it is intended to be. When I have said that, I have said all I have to say. I hope the second reading will be agreed to.

Question put, and a division taken with the following result:—

Ayes	9
Noes	14
Majority against ..	5

AYES.

Hon. E. H. Gray	Hon. A. Lovekin
Hon. J. Cornell	Hon. T. Moore
Hon. J. M. Drew	Hon. G. Potter
Hon. J. W. Hickey	Hon. J. A. Greig
Hon. W. H. Kitson	*(Teller.)*

NOES.

Hon. A. Burvill	Hon. A. J. H. Saw
Hon. J. Duffell	Hon. H. Seddon
Hon. E. H. Harris	Hon. H. A. Stephenson
Hon. J. J. Holmes	Hon. H. Stewart
Hon. J. W. Kirwan	Hon. H. J. Yelland
Hon. J. M. Macfarlane	Hon. J. Ewing
Hon. G. W. Miles	*(Teller.)*
Hon. J. Nicholson	

PAIRS.

AYES.	NOES.
Hon. J. E. Dodd	Hon. C. F. Baxter

Question thus negatived, the Bill defeated.

BILL—STANDARD SURVEY MARKS.

Returned from the Assembly without amendment.

BILL—JURY ACT AMENDMENT.

Second Reading.

Debate resumed from 9th October.

Hon. A. J. H. SAW (Metropolitan-Suburban) [9.17]: I regard the Bill as only second in importance to the Arbitration Bill at present before the Chamber. The origin of the jury system in the administration of justice has been much debated, various people imagining that it derives from Roman origin, others that it is Celtic or Anglo-Saxon in origin. Whatever its origin, the present form in which it exists has been largely due to the influence of the Norman Conquest. It really evolved as an alternative to trial by ordeal or by combat, and attained a recognisable shape in about the thirteenth century. But no matter how or when it originated, I do not think any of us can be quite satisfied with the jury system. Like all other human institutions, it has the defects of human nature. As an instrument of justice it is warped by bias, by ignorance, by perversity, and sometimes by corruption. It has one very great defect, namely the fact that, as a rule, unanimity is required in the verdict of the jury.

Hon. J. Cornell: Do you call that a defect?

Hon. A. J. H. SAW: Yes. In the past various efforts were made to compel a jury to arrive at a unanimous verdict. It was within the power of the sheriff to withhold food and drink from them, and when the jury were particularly recalcitrant they were paraded around the circuit in open carts until they arrived at a verdict. That compulsion has been done away with and at present, very often after a comparatively short retirement, the jury are dismissed without arriving at a verdict. This, too, following on a trial extending over many days, sometimes weeks, and involving very great expense to all the litigants engaged, including the Crown. Under the present system, where unanimity is required it is possible for a few determined men to prevent a verdict being returned, and indeed on occasion a few determined men will succeed in reversing the opinion of the majority of the jury, even when the facts are quite plain. I remember some years ago a juryman informed me of a case on which he had sat. He declared that immediately they retired a juryman flopped into a chair and said, "He is not guilty, and if I stay here for six months it is the same." He was followed by two others who expressed the same opinion. The result was that one by one the rest of the jury took up the same attitude, until presently my informant was the only one left of a contrary opinion, and finally he gave way.

Hon. J. Cornell: It became an endurance test.

Hon. A. J. H. SAW: The result was very strange, because when they returned the verdict the judge was so astonished that at first he did not know what to say, and on recovering his speech, he told them scathingly it was quite certain that certain people were not fit to serve on juries. There are many, some of them good judges, too, who think that the jury system has long outlived its usefulness. There was a time when juries stood between oppression and justice. In those days, when judges were appointed and kept in office at the whim of an autocratic monarch, the judges sometimes were the instruments of oppression, and the jury system no doubt very often safeguarded the innocent. But under present conditions, when a judge is quite independent, and when we consider the manner in which he is selected, and the fact that he can only be

removed by a vote of both Houses of Parliament, it is seen that the usefulness of a jury no longer exists. I can conceive that in the course of time a set of circumstances may arise when perhaps the jury will stand between an innocent man and a future Judge Jefferies who will be acting tyranically and, perhaps, obeying the behests of a mob-cracy. However, in that respect I will leave the future to take care of itself.

Hon. J. W. Kirwan: People say nowadays that Judge Jefferies was not so bad as he was painted.

Hon. A. J. H. SAW: I believe that very few men are as bad as they are painted, that most men possess at least some good qualities. However, from what I have read, I do not fancy there were very many good qualities in Judge Jefferies. The questions I ask myself are: Is this Bill likely to improve the administration of justice; is it likely to provide a fairer, more impartial trial of the accused or between two litigants; is it likely to result in the acquittal of the innocent; is it likely to ensure the conviction of the guilty? Because that is what I take to be really the function of a jury, and that is what I imagine should be the purpose of any Bill purporting to amend the Jury Act. The Honorary Minister (Hon. J. W. Hickey) seemed to think there was no such principle involved, that the only principle was the right of every adult person to serve on a jury; a man under compulsion, a woman at her own option. I deny that principle entirely. To my mind the proper principle is the right of a fair open trial at the hands of an impartial and capable tribunal; that, I think, is really the only democratic principle that should be involved. Whatever the defects of the jury system, in my opinion, the Bill before us is going to increase them threefold. The Bill is vicious in principle. It contains three main provisions; the first, the abolition of special juries; the second, the lowering or abolition of the present qualification for a common juror; and the third, the admission of women at their own option to serve on juries. I will take those provisions in detail. There is the abolition of the special jury; I find the qualifications required in a special juror are that he must be either a bank director, a justice of the peace, a merchant, or the owner of a real personalty of £500 or over. Any litigant who is entitled to an ordinary jury may apply to the judge for a special jury; and the judge may grant his application, but may make an order that the applicant has to pay the cost of the special jury.

Hon. T. Moore: The greater reason why it should be done away with.

Hon. A. J. H. SAW: If a man is content to pay for the higher qualifications of a special jury, and if the judge thinks it is a case that should be tried by a special jury, I can see no objection whatever to a special jury being empanelled.

Hon. T. Moore: Is it qualification or class that the applicant wants?

Hon. A. J. H. SAW: Qualification.

Hon. T. Moore: I think it is class.

Hon. A. J. H. SAW: The Honorary Minister argued that because he himself and certain other miners had been convicted by a special jury of refusing to work alongside another workman, and so depriving him of following his calling, there was prejudice on the part of the special jury, and therefore special juries should be done away with. I would point out that special juries are called upon to decide only on questions of fact. The Honorary Minister did not deny that he was guilty; in fact, he said he was guilty: and he gloried in his action and said if he was placed in a similar position again, he would take a similar action. There can be no question as to the facts of the case. That was the only thing the jury could decide upon. They were sworn to be bound by the evidence placed before them, and their only function was to find on questions of fact. The point as to whether the case amounted to conspiracy or not, was a question of law.

The Honorary Minister: That was the charge.

Hon. A. J. H. SAW: That was a point upon which the judge would direct the jury. If the Honorary Minister is not aware that a jury can find only on the facts and not on questions of law, I advise him to again study the legal system. I understand that the Minister for Works also has a grievance against special juries, because on two occasions he came before them, getting off once and being convicted in the other case. Here, too, the jury found only on a question of fact. I believe this was in connection with some pamphlet that bore Mr. McCallum's name. It was issued over his name, and he had to take the responsibility, just as the directors of a bank would have to be responsible for anything issued by the bank manager in their name. It is only on a question of fact and not of law, that a jury can give a verdict. Two Cabinet Ministers have been convicted by special juries, and so the special jury system must go. I tremble to think what will happen in future if it should be that someone has been convicted, perhaps of no very serious offence, by a common jury—if there is one left after this Bill passes—and a judge, and that man becomes a member of Cabinet. I presume the whole judicial system will be swept away, judge and jury, and that we shall revert to something in the nature of the star Chamber. If there is any benefit under the special jury system in complicated cases involving business methods and a knowledge of business transactions, etc., I claim that litigants at the discretion of the judge should be empowered to employ that special jury. The Honoray Minister said that special juries were always biassed, and would find against trade unionists.

The Honorary Minister: I did not say that.

Hon. A. J. H. SAW: It is an argument commonly used that they are biassed and prejudiced in this way.

The Honoray Minister: I did not refer to the matter.

Hon. A. J. H. SAW: I withdraw the statment, but there is an impression abroad that it is so. If a special jury is biassed, I ask what chance of conviction there would be under a jury such as is proposed by this Bill, in a case such as that alluded to by the Honorary Minister where certain people were placed on trial because they had prevented a fellow workman from following his vocation. What prospect would there be of a conviction under a jury that was promulgated under this Bill? I make bold to say that no jury of this type would ever return a conviction.

Hon. W. H. Kitson: You are assuming that the duty of a jury is to convict.

Hon. A. J. H. SAW: I assume that the function of a jury is to find on the facts before them, and return a verdict accordingly. The names of the juries are known, and the verdict of the jury has to be unanimous. If a jury convicted in such a case, what chance would any member of it have, the next morning when presenting himself for employment? I am perfectly certain he would have no chance of obtaining work. If he did obtain it he would be lucky if he did not find that something dropped in his neighbourhood, perhaps not to hurt him, but certainly with a view to intimidating him. No jury in these circumstances would dare to return a verdict against the accused person, and they would be wise. I am aware of the petty tyrannies that can be exerted by trade unions in such circumstances.

Hon. W. H. Kitson: And other organisations. Take the B.M.A.

Hon. A. J. H. SAW: No. It so happened that a special jury once had to try a case wherein certain medical men, because they deemed another medical man's conduct unprofessional and had refused to cooperate with him, had to stand their trial by sepecial jury, and they were mulct in heavy damages. The prejudice of special juries, if any, is, therefore, not confined to the class of cases instanced by the Honorary Minister. I deny that there is any prejudice on the part of special juries or any other sensible people against trade unionism. We know too well the benefit it is to the worker, however much we may deplore the tyranny that is occasionally exercised over trades unionists by their fellow members. No solid argument has been advanced against special juries. The next proposal is that the present qualifications for common jurymen should be abolished. The present qualification for a common juryman is £50 real estate or £150 personal estate. I do not pretend for a moment that the possession of £50 real estate or £150 personal estate, will insure that that person is honest or has any very high degree of intelligence.

Hon. T. Moore: The possession of £500 does not.

Hon. A. J. H. SAW: That is for a special jury.

Hon. T. Moore: It makes all the difference. The matter of £350 makes them intelligent.

Hon. A. J. H. SAW: I do not say that it insures the possession of a high degree of intelligence. No reasonable man can deny that there is a greater percentage of honest and intelligent people possessing that humble qualification, than there is amongst the number who do not possess it.

Hon. A. Lovekin: Hear, hear!

Hon. A. J. H. SAW: That cannot be denied.

Hon. T. Moore: You infer that the rich are honest and the poor are dishonest.

Hon. A. J. H. SAW: I do not.

Hon. T. Moore: You do.

Hon. A. J. H. SAW: There is a greater percentage of honest and capable men amongst those who possess that humble qualification——

Hon. T. Moore: Of capital.

Hon A. J. H. SAW: —than there is among those who do not possess it. I admit that occasionally there are people of the greatest probity and sometimes of the highest degree of intelligence who are practically destitute, but they are the exceptions and not the rule. It is proposed to abolish this humble qualification, and we are to have a jury drawn from every section of the community. The right of the litigant or the accused person to have the best tribunal that can be devised, is to be denied him, and another which is not as good and has not as good a status in the community is to be substituted. Everybody is not entitled to serve on a jury, nor is there any reason why that should be so. Our duty is to the litigant or the accused person, and not to put every man on the roll to serve as jurymen. If this Bill goes through, and this qualification for common jurymen is abolished, it will hasten the day when the jury system will go altogether.

Hon. W. H. Kitson: You will agree to that.

Hon. A. J. H. SAW: It has a great deal to commend it, and I am not alone in holding that opinion If the present Government think that it should not be an illegal offence to deprive men of the right to work, or for persons to combine to prevent men from working, it would have been more honest if they had brought down a Bill to alter the law, rather than to have brought in one that would lower the status of jurymen, abolish altogether special juries, and so arrive at the position in that way. If they think that this should be the law let them bring in a Bill and say so, and we can then discuss the point. The last principle in the Bill is the right given to women to make application to serve on a jury. Of all the systems of choosing a jury, I should

imagine this was absolutely the worst. It will mean that we shall get only a small percentage of women who will apply to serve on the jury.

Hon. J. J. Holmes: And "stickybeaks" at that.

Hon. A. J. H. SAW: If the object is to get representatives of real feminine opinion, the Government will not achieve it in this way. I do not suppose that under this clause 10 per cent. of women will apply to be put on juries. Practically all the wives and mothers without exception, will not apply, but all the cranks undoubtedly will do so. Thus, we shall certainly not get a proper representation of feminine opinion. Some time ago speaking in this House I said I was a whole-hogger for the rights of women, and I am still. If the women will convince me that the great majority of the sex want to serve on juries, and if I can bring myself to believe that this will improve the administration of justice, which is open to argument, I will vote for the inclusion of all women to serve on juries exactly on the same qualification as exist for men.

Hon. J. Cornell: Hear, hear!

Hon. A. J. H. SAW: But I will not be a party to allowing a small percentage of women to apply to serve on juries, because I am certain that in that way we shall not get a fair representation of women opinion upon juries. The duty of serving on a jury is a very arduous, tiresome and responsible task, involving very high qualities of mind. Jurors have to listen often to most revolting and disgusting details and have to follow very complicated arguments. Moreover, they have to surrender their personal liberties for days and sometimes for weeks. Only recently we had one instance where that happened. Such instances frequently occur in civil and sometimes in criminal cases. In these circumstances I do not believe that any sensible woman will apply to be put on the jury list. All sensible men of my acquaintance want to get off the list and adopt all kinds of excuses to get away from those responsibilities. A certain body of professional men asked me, in the event of this Bill being taken into Committee, to move for exemption for them.

Hon. A. Lovekin: There are the justices, too.

Hon. A. J. H. SAW: Doctors already have exemption and other classes of professional men find this duty very irksome and wish to be relieved. I do not think there is any real demand amongst women for inclusion as jurors. I have not met a single woman who has expressed any wish to serve on a jury. I commend them for their judgment.

Hon. W. H. Kitson: That does not say they are not capable.

Hon. A. J. H. SAW: No, but in their own interests women would be better off the juries. There are two minor provisions in the Bill which are machinery clauses of some value. The main principles embodied in the Bill are so wrong and vicious that I intend to oppose the second reading of the measure. I put it to the House that we should not do anything that will lower the standard of the administration of justice. If we do, it will undoubtedly recoil on our heads. We cannot do any such thing without bringing the law into contempt. When we do that, it reacts upon the whole community. I oppose the second reading of the Bill.

On motion by Hon. J. Cornell debate adjourned.

House adjourned at 9.48 p.m.

Legislative Assembly,

Tuesday, 14th October, 1924.

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

QUESTION—RAILWAY ZONE FREIGHTS.

Wheat and natural ports.

Mr. A. WANSBROUGH asked the Minister for Railways: 1, Is he aware that the present zone system of freights over our State railways on wheat for export is being used by wheat buyers to concentrate the whole of this season's wheat at the port of Fremantle? 2, If so, what loss of revenue is anticipated to the State railways on zone-reduced freights to bring such about? 3, If Nos. 1 and 2 are correct, will he introduce a zone system of freights for all export traffic, thus assuring each seaport of its geographical trade? 4, If so, will such system be brought into operation for this season's harvest?

The MINISTER FOR RAILWAYS replied: 1, No. A comparatively small portion of the exportable wheat is occasionally diverted to other than the nearest port for