

public apology." Even if prepared to do so under other circumstances, I certainly would not under the alternative threat which you hold out of my being struck off the rolls. No man with the smallest feeling of self-respect would submit to apologize under pressure of a threat, and I can only express my great surprise that gentlemen filling the high position which you and the concurring Judges do, should for one moment contemplate proposing such an alternative to one who is your equal in social rank and in a nice sense of honor. Then you proceed to say that if I should have declined to make such an apology you would have struck me off the rolls. Have you considered the powers of your Court? It cannot make law to suit its own convenience. It can only declare and enforce the law as established by precedents in the Courts of Westminster Hall—the great parent of common law. You will find no precedent which would justify you in so violent and peremptory a course. The cases in which barristers have been disbarred, or solicitors struck off the roll, have been all cases of professional "malfeasance," in the strict sense of the word, or cases of conviction, after trial and sentence, for some felony or high misdemeanour. I am not acquainted with a single precedent which would justify the exercise of the power which you claim in a case where the offence consists simply in a barrister, out of Court, and having no connection with any case pending in Court, criticising in a newspaper (whether with undue severity or not) the discretion or judgment of a Court. I think that no instance of either disbarment or removal from the rolls in such or any analogous case can be cited. It is true that, under conceivable circumstances, such criticism might amount to a contempt of Court; but it does not follow that, because there is a contempt of Court, it can be visited with the extreme penalty which you propose. You appear to have confounded a contempt of Court with professional or criminal misconduct—two things entirely different in themselves, and involving entirely different consequences. It may appear to be presumptuous in a single member of the Bar to oppose his opinion to that of four occupants of the Bench, but I have no hesitation in saying that I believe you and your brother Judges to be in error. Your position, I venture to think, is "not law;" and, notwithstanding your prophetic assurance to the contrary, I think it need only be proposed to the Privy Council to insure its immediate negation.

But suppose that your Court, disregarding the absence of precedents, or creating one *pro hac vice*, should decide to fulminate against me the extreme sentence which you threaten; would that vindicate its outraged dignity, or make it more respectable before the public? You would, for a few offensive words, have disbarred a man of unblemished professional, public, and private character, with, I may venture to say, all the antecedents of a gentleman; and you would have admitted to practice a person convicted of forgery at the Old Bailey and who has undergone a twelvemonth's imprisonment in Newgate. If by any possibility such a course could have vindicated the honor of your Court, it certainly would not have added to the respectability of the New Zealand Bar, or made it attractive to any but that class which have "left their country for their country's good;" and not only would the credit of the Bar have thus suffered by your act, but, as the Bench is recruited from the Bar, you might some day have found yourself hailing as your "Brother Judges" men whom you have at previous periods sentenced in the dock as felons and misdemeanants. Such would have been the possible result of the precedent you would have created. What would your Court have gained?

To most lawyers the threat you have held out would, if executed, involve personal ruin for life. In my case my connexion with the Bar is now little more than honorary. I take pride in belonging to a profession which stands deservedly high in public esteem, and I watch with much interest whatever concerns the welfare of the young branch of it which exists in this Colony. I should be truly sorry to see it degraded by the act of those who ought to be most zealous for its purity and honor.

And now, my dear Sir George, I am about to be extremely frank with you. You have spoken of me in no measured terms in your letter to Judge Ward, and I must claim the reciprocal privilege of speaking to you in an equally plain manner. Excuse me for saying that, after having thoroughly studied this case, the conclusion which is forced upon me is that you have yourself personally been the principal cause of this unfortunate "scandal." I have read all the papers laid by Mr. Stafford on the table of the House of Representatives in 1868. The documents exhibit, among others, private correspondence between yourself and Mr. Smythies, ("My dear Mr. Smythies,") and make reference to private interviews between you and him on the subject of his admission. It is clear to me that, but for the encouragement given to him by you in private and before he came openly before the Court, he would, probably, not have persevered in his attempt to re-enter the ranks of the profession. I have no doubt that Mr. Smythies found it to his advantage to work upon your good nature. That you should sympathize with a fallen professional brother, whom you perhaps believed to be penitent and reformed, was creditable to your heart, but you should have remembered the interests of the profession of which you were yourself a member. What greater wrong could be done to it, what greater insult offered, than to admit to its ranks a person convicted of forgery, without, as far as I can discern, one single extenuating circumstance. Your amiable sympathies for the individual closed your eyes to what was due to the profession into which you introduced him, and you did him a kindness at its expense.

But I observe that you attempt, in your letter to Judge Ward, to palliate your admission of Mr. Smythies by the allegation that it took place with the knowledge and acquiescence of the whole Dunedin Bar, including the present Attorney-General and the gentlemen who have since taken the most active part against Mr. Smythies. This is scarcely a fair statement of the facts, on which you appear to have been imperfectly informed. I am told that the leading men of the Dunedin Bar were quite prepared, and had taken preparatory steps, to oppose Mr. Smythies' admission, when their breath was taken away, so to speak, by the production by him of a memorandum with which he had been furnished by yourself in a letter dated 10th November, 1865, which caused them to believe that the case was decided beyond recall. As to the Attorney-General, whose name you have used, I believe he was not even at Dunedin at the time, and never acquiesced in any way. I cannot learn that half a dozen persons, certainly not out of Dunedin, knew anything of Mr. Smythies' antecedents or of his application for admission. The profession at that date, as you are aware, was wholly without organization in every part of the Colony, and the only persons who could be considered charged with the guardianship of its honor and interests were the Judges of the Supreme Court. It has now (fortunately) been organized by Act of the Legislature, and its honor and interests will henceforth be in its own