

**Record of the
Proceedings of the Queensland Parliament**

...
Legislative Council
8th May 1861
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Extracted from the third party account as published in the
Moreton Bay Courier 9th May 1861

The PRESIDENT took the chair at 10 minutes past 3 o'clock, and opened the proceedings with prayer.

NEW MEMBER.

John McConnell, Esq., introduced by Dr. Fullerton and Mr. Galloway, took the oath and subscribed to the roll as a member.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

A message was received from the Legislative Assembly, intimating compliance with the resolution recently passed by the Legislative Council relative to the appointment of Joint Committees, and stating that arrangement had been mutually met by the appointment of corresponding Committees on the part of the Assembly.

CORONER'S BAIL ON MANSLAUGHTER BILL.

Dr. HOBBS moved that, the Bill to enable Coroner's in the colony of Queensland to admit to bail persons charged with manslaughter, be read a second time. He explained that as the law stood at present a coroner had no power, either on remand or committal, to grant bail, and the consequence was that persons, however innocent, could only obtain the indulgence of bail through the intervention of the Supreme Court. The result of this arrangement, besides unnecessarily harrassing the feelings of the accused, went enormously to increase the expenses attendant on the administration of justice, and the reason was, that offenders in this colony had to travel long distances and to endure, pursuant to a coroner's committal, long periods of incarceration. It was a well known fact, moreover, that offenders, after having been conveyed a long distance at great expense by virtue of a coroner's warrant, had been immediately liberated on application to the Supreme Court, although the same object might have been gained had the coroner been invested with the power which he now sought to confer by the present bill. He concluded by stating the bill now before the house was similar in principle to one recently introduced into the British Parliament.

The CHAIRMAN of COMMITTEES asked the hon. mover whether he was sure the law, as it now stood, did not accord to coroners the power which it was now proposed to be conferred by this bill. He had himself received persons from the country committed under bail on a coroner's warrant.

Dr. HOBBS : This bill referred particularly to cases of manslaughter.

Mr. GALLOWAY said that any two magistrates in their ordinary jurisdiction, possess the power of allowing bail in cases of manslaughter, and he therefore imagined that there was nothing to prevent a coroner from exercising a similar jurisdiction. In saying this he had no intention whatever to oppose the second reading of the bill.

Mr. YALDWYN agreed that two magistrates possessed the power now claimed, and he was therefore disposed to think that the bill would amount to an undue interference with the

privileges of the magistracy.

Dr. FULLERTON remarked that in former times, only lawyers were recognised as qualified to fill the office of coroner, but latterly it had been found expedient to employ only medical men, and as might be expected, neither their time nor their habits allowed them to become proficient in law. He therefore thought that under all the circumstances of the case, they were entitled to the assistance of the legislature, if it were only to enable a coroner to call in the assistance of a magistrate in such cases as those contemplated by the Bill. He would, therefore, support the second reading of the bill.

The PRESIDENT apprehended that the coroner was not necessarily a magistrate, and as a similar bill had been entertained in England, he saw no reason why they should not consider the bill now before the house. Under these circumstances he was in favour of allowing it to go into Committee.

The motion was then put and passed, and the committal of the bill was fixed as an order of the day for the following day.

ADMINISTRATION OF POISON AMENDMENT BILL.

Dr. HOBBS moved that the bill to amend the law relating to the unlawful administration of poison be read a second time. It had been found that the law as at present in existence was insufficient to meet the requirements of the case, and to a certain extent altogether inoperative. On the one hand the facilities afforded to the accused party for administering poison unlawfully were very great, whilst on the other the difficulties of proving an unlawful intent were correspondingly great. The object of the present bill was to bring home the guilty intention to the accused by a particular and certain method of proof, so as to leave no doubt as to the question of wilful murder. Whoever paid any attention to the records of the public journals wherein cases of accidental death by poisoning had occurred, occasioned in most instances by carelessness, &c., must be fully aware of the necessity of such a measure as the one he now proposed. He believed that this measure, if passed, would be the means of checking and punishing the cases to which he referred, and he believed, moreover that his hon. friend, Dr. Fullerton, would hear him out in stating that there were many cases of unlawful poisoning which never came before a court of justice. (Hear, hear.)

Mr. GALLOWAY observed that as the object of the bill appeared to be to punish cases of wilfully administering poison for unlawful purposes, he would not oppose its second reading, however much he might be disposed to take a contrary part in committee.

Dr. FULLERTON corroborated the testimony of the mover with regard to the prevalence of cases coming under the designation of unlawful poisoning, and the difficulty of getting at those cases by legal proof. He at the same time stated that the bill of which he had already given notice, would supply a deficiency in the one introduced by the hon. mover, inasmuch as it would guard against the sale of drugs by ignorant and unqualified persons who, by administering overdoses and wrong medicines are often the cause of taking away life.

The PRESIDENT briefly supported the motion, but pointed out that some material improvement might be made in committee.

The motion was then put and passed, and the consideration of the bill in committee fixed as an order for the following day.

The house adjourned at 20 minutes past 4, until the following day at 3 o'clock.