

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

...  
**Legislative Council**  
**16<sup>th</sup> May 1861**

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Extracted from the third party account as published in the  
Courier 17<sup>th</sup> May 1861

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THE PRESIDENT took the chair at five minutes past 3 o'clock and opened the proceedings with prayer.

**MR. COMMISSIONER HALLORAN.**

Mr. BROWN remarked in reference to the papers laid on the table on the previous day, that the evidence bearing on the case of Mr. Commissioner Halloran had not been ordered to be printed. He wished to know from the hon. member representing the government whether there was any objection to print the evidence.

Dr. HOBBS replied that there was no objection to print the evidence.

**PAPERS.**

Dr. HOBBS laid certain correspondence on the table relative to the western boundary of Queensland, which was ordered to be printed.

**THE MEDICAL BILL.**

Dr. FULLERTON wished to direct the attention of hon. gentlemen for a few minutes to a topic of unusual interest, inasmuch as it affected the whole community, by its influence on the health and consequent happiness of all. He alluded to the practice of medicine, surgery, and pharmacy. They knew that, by the British Constitution, the precedence was given to law before medicine; nor would they, for any slight mistake, wish to alter or overturn that noble structure; but they were aware that this was one of the enactments of the old Feudal system, which modern experience would scarcely sanction, for any one would sooner lose his money than his health, and all must be convinced that a greater number of the human race were carried off by disease, than by the hand of the assassin. Health, in his estimation, was preferable to all other earthly enjoyments, and far more to be desired than riches; for what availed the brawny shoulder and muscular arm of the artizan, if disease had paralysed his body; or of what profit were the clear intellect and bright genius of the literary character, if by fever the throne of reason was converted into the seat of delirium; or what happiness could the prince experience, although surrounded by all the luxuries of a palace, while his nights were sleepless and his whole frame distorted by rending, agonising pain? Such a picture was often realised. But, when it pleased God that sickness should follow as a consequence of sin, and that disease should be sent to punish transgressions, the Almighty was also pleased, in his mercy, to create medicine, so that we had provided for us, a cure for every disease except death, if we only knew the remedy and how to apply it. It was true that a few diseases had as yet baffled the researches of human skill, because the study of medicine was a science unlimited in extent, and surrounded by many difficulties. In the laboratory one could see the effect produced by chemical affinities, but when medicine was introduced into the human system the external eye failed to aid us, and we could only reason from analogy as to the influence of the remedies. Hence the necessity for years of study and painstaking observations, to enable any man to practice with safety on the health of his fellow creatures. But as the difficulties to be contended with were great, in equal proportion was the

pleasure to be derived from the successful study of this science. He (Dr. F.) was convinced that any person who had devoted his mind to the study of medicine—had ever felt its happy effects on himself, and often observed its astonishing influence on others,—were he to live the common period allotted to man, a dozen times in succession, would say on each return to life “let me be a doctor.” He hoped hon. gentlemen would pardon him if he had digressed a little from the subject under discussion. He had no wish to institute any invidious comparison between the medical and any other profession, but his sole aim and object was to impress them suitably with the necessity that exists for medical practitioners and druggists to be duly qualified; and to convince them that it was an imperative duty for them to protect the public from quacks and unskilful vendors of medicine, who were more injurious to the community than robbers and assassins. The robber would take the poor man’s money, and leave him to earn more; but the quack not only took his money, but, by depriving him of medical aid in proper time, often rendered him a sufferer for life. The assassin seldom killed more than one victim before he was overtaken by the hand of justice, but the quack and ignorant vendor of medicine, too often practised on many with impunity. He did not mean to say that those pretenders to medicine were devoid of talent. On the contrary, they were generally too clever by half, so that, by their address, they could frequently make the base appear the better coin. By reading the *Lancet* and other medical periodicals, they acquired great facility in talking of medicine and disease, while, at the bedside of a patient, they were incapable of distinguishing between one ailment and another; and although they were always ready to name the malady, yet it was a matter of mere accident if the name, or the medicine they gave, was applicable to the case. Of surgical operations and the nervous system they would talk with all the fluency of any professor of anatomy, while they had never studied at any hospital, traced a nerve, nor dissected any portion of the human body. At an early period in the history of New South Wales, lawyers observed that, in trials for murder, the lives of the accused parties were often sacrificed by the evidence given by such medical witnesses; and in the first year of the reign of Queen Victoria, a bill was passed in Sydney, requiring persons giving medical evidence at coroners’ inquests to be educated as physicians or surgeons. But as many of the medical practitioners who came out with emigrants had not studied surgery, and held only a diploma from the Apothecaries’ Company, the bill was amended so as to include apothecaries, as qualified to give medical evidence at coroners’ inquests. The promoters of these bills, they would observe, extended their sympathy only to prisoners at the bar, but the measures now proposed sympathised equally with the suffering, innocent poor; and was calculated to prevent the community from being victimised by the deception and ignorance of unlearned medical practitioners, chemists, and druggists. In 1858, a “Medical Act” was passed by the British parliament, and in the following year an attempt was made to pass a similar bill in New South Wales, but it was petitioned against by a few unqualified practitioners, and also by the druggists, because one clause in it would prevent the latter from prescribing over the counter. A select committee of the Legislative Council was appointed to enquire into the objections of those gentlemen and the validity of their petitions. The enquiry extended over some days, and the evidence was rather bulky; but to convince them of the necessity there was for legislation in this matter, he had selected a part of the evidence given on the occasion, which, with their permission, he would read.

“Mr John Edmund Rutherford, chemist and druggist, examined: Do you believe that one-third of the chemists and druggists in Sydney have been regularly brought up to that business? Ans.—That would be a very broad assertion for me to make.

“I ask what your own impression is? Ans.—I would rather decline giving it.

“Do you think it is the practice that any person who chooses may furnish a chemist’s shop with large bottles and so on, although he may have belonged to another trade or profession a week before? Ans.—Yes.

“Do you believe that some in Sydney, now in business as chemists and druggists, were lately tradesmen, without any training for this occupation of chemist’ and druggists? Ans.—Several such.

"Are you aware of such persons going to make professional visits out of their shops? Ans.—Only one case occurs to my knowledge.

"Does it appear to you that the poorer portion of the public should be protected against such deception; as persons not knowing drugs might make hideous mistakes? Ans.—Yes. I think that may be done by preventing those who have no right to it, assuming the name.

"Do you think if a law were passed to regulate the trade of chemist and druggist that it would be fair to apply it to those now carrying on business? Ans.—Yes.

"Would you prevent any one now carrying on the business from doing so in future, unless they could undergo an examination? Ans.—Yes.

"You think some are now carrying on business under false pretences? Ans.—Yes.

"You think that should be prohibited in all cases? Ans. —Yes

"Mr. Henry Dayroll, chemist and druggist, examined:—Do you think the chemists and druggists, as a whole, are sufficiently educated? Ans.—No, not in all cases. There are many who put up their names as chemists and druggists who have no right whatever to do so, and I think that any law to prohibit such men from doing so would be appreciated by the qualified members of the profession and by the public. If a man goes into some of the shops now and asks for tincture of rhubarb, he may get tincture of opium or some other compound which does him a great deal of harm. I think it most desirable that some such bill should be passed. There are a great many empirics here, quacks of the lowest order, who go out and visit people at their own homes without any right or authority to do so.

"Do you think a man should be obliged to undergo some test of his capability, before he is authorised to open a druggists' shop? Ans.—It would, I think, be a very desirable thing. It would be a great protection to the public as well as to the man who has spent a large sum on his education.

"With respect to chemists and druggists now in business, if ascertained to be unqualified, would you prevent them carrying on the business in future? Ans.—Decidedly, I do not see why the lives of the public should be endangered by their want of knowledge; and therefore I think it would be an act of justice.

"You say it is desirable that no person should carry on the business of chemist and druggist unless he can undergo an examination. Do you not think he should have undergone a definite period of study and experience? Ans.—No doubt about it. The mere fact of a man going into a shop and learning to put up pills and powders does not make him a dispensing chemist. It is the practical knowledge that is the great thing; the theory is in the power of every man who knows a B from a bull's foot.

"You think it would be desirable to prohibit all persons from carrying on business who could not undergo an examination? Ans.—I think that would give protection to those who have paid large sums for their education; and in another more important view it would give protection to the public. But the most injurious person here is the quack-doctor, who goes out and professes to cure all things. He is the animal I would put down.

"Have you reason to suppose that any of these persons are incompetent? Ans.—Of course they are; there is no doubt about that.

"Has it come under your observation that much injury is done by these ignorant persons? Ans.—No doubt people very often die who would live if they were properly treated. It is not likely that men who have had no opportunity of seeing large and extensive practice under scientific instructions, can by any amount of two-penny magazines, render themselves fit for practice."

Such was part of the printed evidence given before the committee of the Legislative Council in Sydney, but lest he (Dr. Fullerton) should obscure wisdom by multiplying words, he should leave each to read the entire for himself. This evidence must be considered impartial, because the parties giving it had petitioned against the bill; and it must be looked upon as

important and decisive, because the witnesses were well informed and best acquainted with the subject. Had the druggist in this instance been actuated by any feeling of self-interest, he would not have spoken so severely against the quacks who were always his best friends, for, not knowing the proper remedy in any case, they combined many drugs in the same mixture, in the hope that some one might do good; while it often happened that, of the articles thus improperly united, the one destroyed the beneficial effect of the other. Against such imposters the public safety called for protection, which could be afforded only by obliging all to be qualified by law. The constitution of the Medical Boards of Australia was sufficiently and exceedingly liberal, for by an act passed by the Parliament of New South Wales in 1855, "any person who shall prove to the Medical Board that he has received, after the examination from the University of Sydney, or from some University, College, or other body, duly recognised in the country to which such University, College or other body may belong, a diploma, degree, or license, entitling him to practice medicine, in that country (his own country), shall be deemed a duly qualified medical practitioner." This should be sufficient to meet the wishes of any reasonable man, for if any gentleman had emigrated here without having obtained a degree in medicine, or without having passed the final examination which would entitle him to practice at home, by passing an examination at the University of Sydney, he could obtain the degree of Bachelor of Medicine, which would enable him at once to qualify for practising in this colony; and the fee for the degree of M.B. was only £10. The British Medical Act, passed in 1858, consisted of 55 sections, while the one he (Dr. F.) had the honor to lay before the house contained only ten, nine of which were almost transcripts from the English act. After the preamble of the bill, the first section stated that parties registered as qualified medical practitioners, surgeons, chemists, and druggists, should be entitled to practice and recover fees, and the price of drugs sold; but those who did not comply with this act could not recover fees, nor the price of medicine. The second section required proof of registration to enable persons to recover fees. The third section required medical certificates to be signed by registered medical practitioners, otherwise they would not be valid. The fourth section would punish by imprisonment for twelve months, any persons procuring fraudulent registration, and also those assisting him. The fifth section inflicted a penalty of £20, on any person falsely pretending to be a doctor, surgeon, apothecary, or chemist and druggist, but it did not forbid any person who could make himself useful in any case of emergency, nor would it prevent any amateur from practising. It only required him to do so in his proper name or title, while it prevented impostors from obtaining money under false pretences, and deprived the quack of the assumed title of doctor, making him stand forward, as in the fable, "the naked crow." The sixth section handed over all penalties to the Colonial Secretary. The seventh section required chemists and druggists to present to the Medical Board, testimonials of having spent not less than three years in learning pharmacy and chemical affinities, and to be registered before they could dispense medicine. Here the bill went beyond the British Act, and he might be assailed with the cry of "no precedent;" but then circumstances differed widely from those of the parliament of Great Britain. They had formerly granted so many patents to vendors of quack medicines, that they could enact no law to restrain them without first pensioning off a host of patentees, whose number was legion, and whose claims would affect the public exchequer. There were no vested rights to impede them, but they had the glorious opportunity of stemming the torrent before the floodgates were opened; and he trusted they would not be inert, but prove themselves worthy of their present position. Let no false sympathy thwart their better judgment. Let not the interest or convenience of any private friend come into competition with the public safety; but let them decide that, in this, as in other matters, they would do what they considered their duty. The 8th section enacted that the Medical Board of Queensland should be the registrar for this colony, that a list of registered persons should be published in the *Government Gazette* annually, and that this publication should be evidence of qualification to practice medicine and surgery, and to act as chemists and druggists. The experience of thirty years in the practice of medicine and surgery, and the number of cases which had come under his own notice, wherein the health of many had been injured by improper medicine, and the life of not a few lost for want of proper treatment, had convinced him thoroughly that such a measure was absolutely necessary for the safety of the public; and if he had failed to convince others of its propriety and value, it was owing to the want

of that talent and natural eloquence with some other hon. members of that house would have introduced a bill of such paramount importance. He now begged leave to move that this bill be read a second time.

Mr. MACDOUGALL experienced very great pleasure in supporting the second reading of the bill introduced by the Hon. gentleman opposite. It appeared to him that they might very safely go into committee on the bill from a gentleman who had had thirty years' experience in the matters treated on; and he thought, moreover, after having given the measure very careful consideration, that they should all feel indebted to him for having introduced it.

The PRESIDENT expressed a similar opinion; but at the same time he believed that some of the clauses would require to undergo material alteration in committee, more especially as he thought they were deficient in point of connection, and that some of the cases referred to were already provided for by the existing law. At all events, it seemed to him very desirable that, before they entered into the consideration of the subject in detail, they should have the law of New South Wales before them.

Dr. HOBBS supported the second reading of the bill, for reasons similar as those advanced by Dr. Fullerton. He particularly alluded to the fact that the bill did not exclude foreign practitioners, but he pointed out that, according to the arrangement provided, it would only admit those who were really qualified, and in so doing, the bill would have the effect of abolishing some very ridiculous forums. To show, further, the necessity for improved legislation, he instanced the fact that, at present the Medical Board, although having the power to withhold the usual credentials of qualification, had not the power to prosecute in cases of imposition, although these might be in direct violation of the objects for which the board was originally constituted. The present bill would guard against this, and also against many other abuses of a kindred nature. Under the present system, for instance, any hon. member, if he chose, could send to certain portions of Germany, and there purchase for £5 a diploma which would give him the rank of an M.D., whether qualified or not, and it was to guard against abuses such as this that the bill now before the house had been introduced.

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

### **CORONERS' BAIL ON MANSLAUGHTER BILL.**

On the motion of Dr. HOBBS, this bill was read a third time, and passed, and ordered to be transmitted to the Assembly.

### **ADMINISTRATION OF POISON AMENDMENT BILL.**

The adoption of the report from the committee of the whole house on this bill was agreed to, on the motion of Dr. HOBBS, and the third reading fixed for Wednesday next.

### **PAPER.**

Dr. HOBBS laid on the table a report from Lieutenant Heath, Government Marine Surveyor, relative to his exploration of the new harbour northward of the Bay, which was ordered to be printed.

The house adjourned at twenty-five minutes past 4 until 3 o'clock on Wednesday next.