

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

...
Legislative Council
2nd July 1862

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Extracted from the third party account as published in the
Courier 3rd July 1862

THE PRESIDENT took the chair at a quarter past 3 o'clock, and opened the proceedings with prayer.

MR. LEITH HAY.

Mr. BROWN asked the Honorable the Attorney-General:—1. If certain letters that have appeared in the public papers of this colony (one in the *Rockhampton Bulletin* of the 3rd May last, bearing the signature of Mr. J. L. Hay, in which he denies ever having tendered for Crown Lands whilst holding the office of Commissioner; and another letter in the *Courier*, of the 14th June, by Mr. Dalrymple, another gentleman located as Commissioner in the district of the Kennedy, denying the truth of Mr. Hay's statement, such denial being borne out by notices in the *Government Gazette*) have attracted the notice of the Government. 2. Whether Mr. Hay has still the confidence of the Government, and if such mis-statement has been noticed and enquired into.

The ATTORNEY-GENERAL was understood to say that the matters alluded to had been enquired into by the Government, and that the Government knew of no reason why they should withhold their confidence in Mr. Leith Hay.

JURY BILL.

The ATTORNEY-GENERAL moved the second reading of this bill, remarking that its object was mainly to consolidate existing laws. In fact there were only two new points in the whole bill. The first was to raise the qualification of jurors by the addition of an educational test, and the second was in the schedule, which proposed to increase the rate of remuneration to jurors.

The motion was put and passed, and the second reading was fixed as an order for the next day.

CONSTITUTION BILL.

The ATTORNEY-GENERAL moved the second reading of this bill, and in doing so repeated the arguments he had made use of on former occasions. The hon. gentleman then went through the several clauses *seriatim*, pointing out that they contained scarcely any new matter, and that the bill amounted simply to a consolidation of clauses in existing Acts of Parliament and Orders in Council, the object being to give the public the facility of understanding the nature of the constitution without referring as at present to a variety of acts, Orders in Council, &c. As he stated before the bill had been redrafted, and in its present form, it would not affect the position of hon. members as the House was at present constituted, nor yet would it be inconsistent in the event of the House being constructed on an elective basis. He observed further that the new matter introduced involved no political principle, seeing that it was merely intended to save a reference to other acts in comprehending the bearings of the existing constitution. There are several reasons why this bill should be passed during the present session. In the first place it would have to be reserved for the Royal assent, thus involving the delay of sending it home and back. Hence it followed that if a bill of this kind were necessary at all the sooner they passed it the better. In the second place there was a Civil List attached which was also an important matter for consideration. The hon. and learned gentleman next alluded to the clause requiring that any bill

altering the constitution of the House should pass through two successive sessions of Parliament, and explained that the same matter had been provided for in the New South Wales Constitution Bill, by the insertion of what was called the "two-thirds clause." But, singular to say, in the Orders in Council whence they derived their present Constitution, no mention whatever was made of a two-thirds clause, and hence it was thought that, with regard to so important a matter as a change in their Constitution, some analogous clause should be introduced.

Mr. FITZ opposed the bill for the reasons he had stated on a former occasion. He thought, moreover, that the bill had not been submitted to them in a proper form, inasmuch as the amendments now submitted did not emanate from the Assembly, but were the result of an after consideration of the hon. gentleman who originally introduced the bill. But, irrespective of this, he contended that the bill itself, even in the amended form, contained clauses which involved a doubt as to the rights and privileges of that House, and one of them he thought would even prevent their President from taking part in the ordinary debates of the House. He was aware that he and other hon. members had been charged with raising a factious opposition to this bill, but upon what ground such an accusation could be made he was at a loss to understand, more particularly as he happened to have been one of the most strenuous supporters of the Ministry. They had been charged moreover with being an obstructionist body—in fact little else than a nullity—and that their object was to thwart all legislation calculated to promote the real interests of the country; when he considered, however, that he was himself a native of the soil, and when he saw around him several other gentlemen who were also natives of the soil, and, therefore, deeply interested in the well-being of the country, he was at a loss to understand how any such a charge could reasonably be brought against them. Under all the circumstances of the case, considering the importance of the measure, and the limited time they had to consider it in, he should move an amendment "That, owing to the bill having been formerly rejected, in consequence of its numerous imperfections, the House declines at this late period of the session to take it into consideration."

Dr. FULLERTON supported the second reading, pointing out that, according to the explanation of the Attorney-General, whose legal opinions ought to be preferable to those of Mr. Fitz, there was nothing in the bill to prevent the President as usual from taking part in the debate.

Mr. YALDWYN admitted that the Hon. Mr. Fitz being a native of the soil, and having a large stake in the country, would naturally feel a warm interest in its progress. But at the same time it must not be forgotten that hon. members were there to receive information, so as to guide them in the process of legislation; and therefore he thought the best course they could adopt was to go into Committee on this bill, and thoroughly sift its clauses, and make such amendments as might be deemed necessary. He had no doubt the Attorney-General would be prepared to listen to any amendments which hon. members might think proper to bring forward.

THE PRESIDENT, after stating that the fact of Mr. Fitz being a native of the country was the best reason why he should take a deep interest in its progress, proceeded to reiterate the arguments he had offered on a former occasion. He contended that they were bound to be very cautious in dealing with any bill calculated to affect the constitution of the country, and this he believed was one which required special consideration. He opposed the bill when it was originally introduced on the ground that it was so defective as to be altogether unworthy of their consideration, but since then the Attorney-General had caused very material amendments to be made in it, and he (the President) was not prepared then to say that they ought not to go into committee for its consideration. There could be no doubt that some such a bill was desirable, but he saw many objections to the one then before the House; and if they should go into committee upon it, he believed they would have plenty of work to do. According to his view of the matter the bill would have to be altered from the very first to the last line. The hon. gentleman then commented on the several clauses, and argued that the Attorney-General was wrong in saying that the bill did not effect material changes in the constitution. Among other things he pointed out that the proposed bill abolished the Quorum Act, and in the event of such a bill being passed there would be no provision whatever for obtaining a quorum.

Mr. WESTERN WOOD supported the bill in its present shape, although he had opposed it on the former occasion. The reason why he supported it now was that it had been brought down

to them in a more intelligible form, and was calculated by its embodiment of the more important clauses of existing constitutional laws, to enable them more readily to find out what the Constitution of the colony really was. He would therefore vote for the second reading.

The ATTORNEY-GENERAL explained that the insertion of the provision with regard to the Quorum Act was an inadvertence which he intended to remedy in committee.

Mr. GALLOWAY opposed the second reading of this bill, because he saw in it several clauses of a most objectionable character, not only in a general sense, but as calculated to affect the privileges of the House.

Dr. HOBBS opposed the motion for similar reasons, and characterised the attempt to pass this bill, under the peculiar circumstances of the case, as a political farce.

Mr. HARRIS would vote for the second reading, reserving to himself the right of proposing or agreeing to any alterations that may be found necessary in committee.

Mr. BROWN opposed the second reading on much the same grounds as those advanced by other hon. members.

The question that the words proposed to be omitted stand part of the question was then put—the proposed to be omitted being “that this bill be now read a second time”—and the following division took place:—

Contents, 12.		Non-contents, 5.	
Mr. White		Dr. Hobbs	
Yaldwyn		Mr. Gallaway	
Dr. Fullerton		Compigne	
Mr. Bigge		Brown	
Balfour		Fitz	(Teller.)
L. Hope			
McConnell			
Roberts			
Harris			
Pring			
Macdougall	(Teller)		

The amendment was therefore lost, and the original motion carried.

MESSAGE FROM LEGISLATIVE ASSEMBLY.

A message was received from the Legislative Assembly, acknowledging the receipt of the resolutions relative to the appointment of a second judge, and returning the same with amendments.

On the motion of the ATTORNEY-GENERAL, the amendments were adopted.

PASTORAL OCCUPATION BILL.

On the order of the day being read for the third reading of this bill,

The PRESIDENT, as Chairman of the Crown Lands Acts Committee, made a few remarks, in which he expressed a doubt as to whether the bill then before the House would work satisfactorily. He believed that the framers of this bill, in their anxiety to check run-jobbing, had entirely overlooked the interests of persons who were now conveying stock overland for the purpose of stocking the new country to the Northward. He believed, however, that it was too late now to make any alteration in the Bill, and he merely made these remarks to show that the Bill did not meet with the unqualified approval of those who had studied the matter most closely during the present session.

Mr. BROWN moved—“That the Bill be re-committed, with a view to the emandation of clause 11.

The ATTORNEY-GENERAL expressed his belief that if they re-committed the Bill then, it would not become law during the present session, as the amendments would have to be printed, and again sent back. He observed, however, that the hon. member might obtain his object by getting the amendment passed in the other House.

The third reading was then agreed to without a division.

SUSPENSION OF DISEASES IN CATTLE BILL.

This bill, on the motion of Mr. MACDOUGALL, was read a second time, considered in committee, and passed.

MATRIMONIAL CAUSES JURISDICTION BILL

The ATTORNEY-GENERAL moved the second reading of the bill, and in doing so explained its several provisions much to the same effect as they had been explained in the other House.

Mr. YALDWYN did not think the time had arrived for the introduction of such a bill, and therefore he moved as an amendment that it be read a second time on the 16th instant.

Mr. FITZ objected to the bill for various reasons, the principal of which was that it contained no provision for the care of children whose parents had been divorced.

The ATTORNEY-GENERAL denied that such was the case.

Dr. HOBBS supported the bill, and cited several cases within his own experience to prove the necessity of some such a measure.

Mr. BROWN, after hearing the explanation of Dr. Hobbs, would vote for the second reading, although at first he was rather inclined to vote against it.

Mr. YALDWYN withdrew his amendment, and the original motion was carried without opposition.

The ATTORNEY-GENERAL moved that the House at once resolve itself into a committee of the whole for the purpose of considering the bill in detail.

The CHAIRMAN of COMMITTEES moved, by way of amendment, that the committal of the bill be fixed for Friday next, his object being to give himself and other hon. members time to consider it.

After some discussion the motion was carried by a majority of 10 to 6.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

Messages were received from the Legislative Assembly, returning the Common Law Procedure Bill and Coolie Bill, with an intimation that the amendments had been agreed to.

The House adjourned at ten minutes past six o'clock, until three o'clock the next day.