

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

...  
**Legislative Council**  
**3<sup>rd</sup> July 1862**

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Extracted from the third party account as published in the  
Courier 4<sup>th</sup> July 1862

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

**JURY BILL.**

The ATTORNEY-GENERAL moved that this bill be placed at the bottom of the paper on ground that it was not so important as the Constitution Bill, which came next for consideration.

Mr. WESTERN WOOD opposed the motion, because he believed that the deferment of this bill might jeopardise its passage through the legislature during the present session.

The ATTORNEY-GENERAL pointed out that even if such an event should occur, the public would sustain no injury, seeing that the bill alluded to was little else than an embodiment of the existing law, the only difference being that it contemplated raising the qualification and remuneration of jurors.

The House then divided with the following result:—

Contents, 9.	Non-contents, 6.
Mr. White	Mr. Harris
Galloway	Brown
Dr. Fullerton	Wood
Mr. Yaldwyn	Fitz
Balfour	Compigne
Roberts	Dr. Hobbs (Teller).
McConnell	
L. Hope	
Pring (Teller).	

The motion for deferring the bill was consequently carried.

**CONSTITUTION BILL.**

On the motion of the ATTORNEY-GENERAL, the House resolved itself into a committee of the whole for the purpose of considering this bill in detail.

On clause 1 being proposed, repealing the Constitution Act of the Legislative Assembly, the Quorum Act, and the Disqualification of Officers Act, the PRESIDENT moved the postponement of the clause on the ground that he had several amendments to move in other parts of the bill, which, if carried, might turn out to be inconsistent with the clause in question.

The clause was accordingly postponed.

The ATTORNEY-GENERAL next moved the 2nd clause, which enacted that the Parliament of Queensland should consist of two Houses, a Legislative Council and a Legislative Assembly, with general powers therein defined.

The PRESIDENT opposed the clause because he thought it was likely to lead to an unnecessary innovation on the present constitution of the colony. It seemed to him that the best course they could adopt was to adhere as closely as possible to the constitution of New South Wales, which they all knew had successfully stood the test of experience for several years. That measure, moreover, was framed and passed by minds equal, if not superior to any they might have in the colonies at the present day. Seeing, therefore, that this measure worked successfully up to the present time, he was fearful that in departing from it they might make a serious mistake. No doubt it was desirable that a Consolidation Act should be passed, but in framing such an act it seemed to him that they should take the best model, which evidently was the Constitution Act of New South Wales. He concluded by moving that the clause be expunged, with a view of substituting the first clause of the New South Wales Constitution Act.

The ATTORNEY-GENERAL decidedly objected to the new clause, as, from its very terms, there was an implication that they were legislating in the dark. The hon. President had told them that the Legislature was to be constructed of two "Houses, in manner hereinafter prescribed;" but the hon. gentleman did not deign to tell them how this object was to be accomplished. Then again, it must be borne in mind that the act of New Wales was framed at a time when there was really no recognized constitution at all, and when consequently, the rights of either House could not be called in question by one or the other. Now, however, it was proposed to pass a clause which, if carried out, might really have the effect of altering the constitution of the Assembly, as defined by the Orders in Council. Why they should do this he was at a loss to know. The other House seemed to be perfectly satisfied with their present constitution, and if so, why do anything to interfere with it. The Bill then before them was not intended to interfere with the construction of either House. It was not a political measure, but simply basis of their present constitution upon which any superstructures might thereafter be erected without involving the repeal or alteration of a single clause.

The PRESIDENT said that, in making the amendments he proposed to introduce, he did not contemplate any alterations in the present form of the Legislature, much less did he desire to deprive either House of the right of initiating its own reforms. Generally speaking, he doubted whether a measure of this kind was really necessary at the present time, but seeing that it had been introduced he was anxious that it should be made as perfect as possible.

Mr. GALLOWAY was astonished at witnessing the temper displayed on this occasion by hon. members who voted for the second reading of the Bill. He happened to have been in the minority when the question came before the House, but in deference to the majority he was willing to consider justly and fairly any amendments that might be proposed. He was afraid, however, from the tenor of the proceedings, that it was not intended to amend the present bill, but merely to substitute a bill—supposed to be the President's—which appeared in the papers the other day, a copy of which had been previously supplied to each hon. member. If so, the better course would be to withdraw the bill then before the House and substitute the one alluded to.

Dr. FULLERTON thought the amendments proposed were altogether inapplicable, and calculated to neutralise the whole spirit of the bill. In fact, if the amendment proposed were carried he thought it would be better for the Attorney-General to withdraw the bill altogether.

Mr. YALDWYN had listened attentively to the discussion, and it appeared to him that the sole question to be decided was simply whether the Bill of the Government or that of the President was to be passed. His own opinion, however, was that the House, having assented to the second reading of the Government measure, they were bound to entertain it exclusively.

The ATTORNEY-GENERAL again explained the nature of the bill.

Mr. WESTERN WOOD supported the amendment, remarking that the new clause proposed was nothing more than a copy of a similar clause in the New South Wales Constitution Act.

Dr. HOBBS was one of those who voted in the minority against the second reading of this bill, because he foresaw the consequences that were likely to arise. The constitution proposed by it was without limbs. It had neither arms nor head, anatomically speaking, and he would just ask hon. members to fancy the Attorney-General stalking about the streets without any of those

members. (Laughter.) In point of fact, the bill contained no reformatory provision with regard to each branch of the Legislature. Such being the case, he looked upon it as a sheer absurdity.

Mr. FITZ supported the amendment, because he desired to adhere as closely as possible to the constitution of New South Wales, which had been framed by Mr. Wentworth, one of the greatest minds Australia could boast of. Such being his opinion he would, if necessary, divide the House upon every clause.

Mr. BALFOUR supported the original clause.

The PRESIDENT explained that his amendment did not contemplate any alteration whatever in the existing constitution of the legislature. They were, in fact, intended to be a mere embodiment of the clauses in the New South Wales Constitution Act.

The motion for the expunging of the second clause, with a view to the substitution of the new one was then put and passed on the following division:—

Contents, 11.	Non-contents, 6.
Mr. Harris	Mr. Yaldwyn
Hobbs	White
The President	Dr. Fullerton
Mr. Wood	Mr. Balfour
McConnell	Pring
Brown	Galloway (Teller).
Fitz	
Bigge	
L. Hope	
Compigne	
Maddougall (Teller)	

The new clause was consequently adopted.

The President then proposed the insertion of the 2nd clause of the New South Wales Constitution Act, having reference to the appointment of Legislative Committees, including a proviso that the number should not be fewer than 23.

The ATTORNEY-GENERAL stated that by the last division the House had directly negated the main principles of the bill as introduced by the Government, and therefore he should not feel himself responsible for its further progress. The House, in his opinion, having previously assented to the principle of the bill in the second reading, had, in his opinion, violated on that occasion the ordinary constitutional practice of the Parliament.

After some discussion, the proposed clause, as well as ten or twelve others from the New South Wales Constitution Act, was passed with slight alterations, chiefly of a verbal character, so as to adapt them to the peculiar circumstances of the colony.

On motion of the Attorney-General, the House resumed, and adjourned at 9 o'clock until 10 o'clock the next morning.