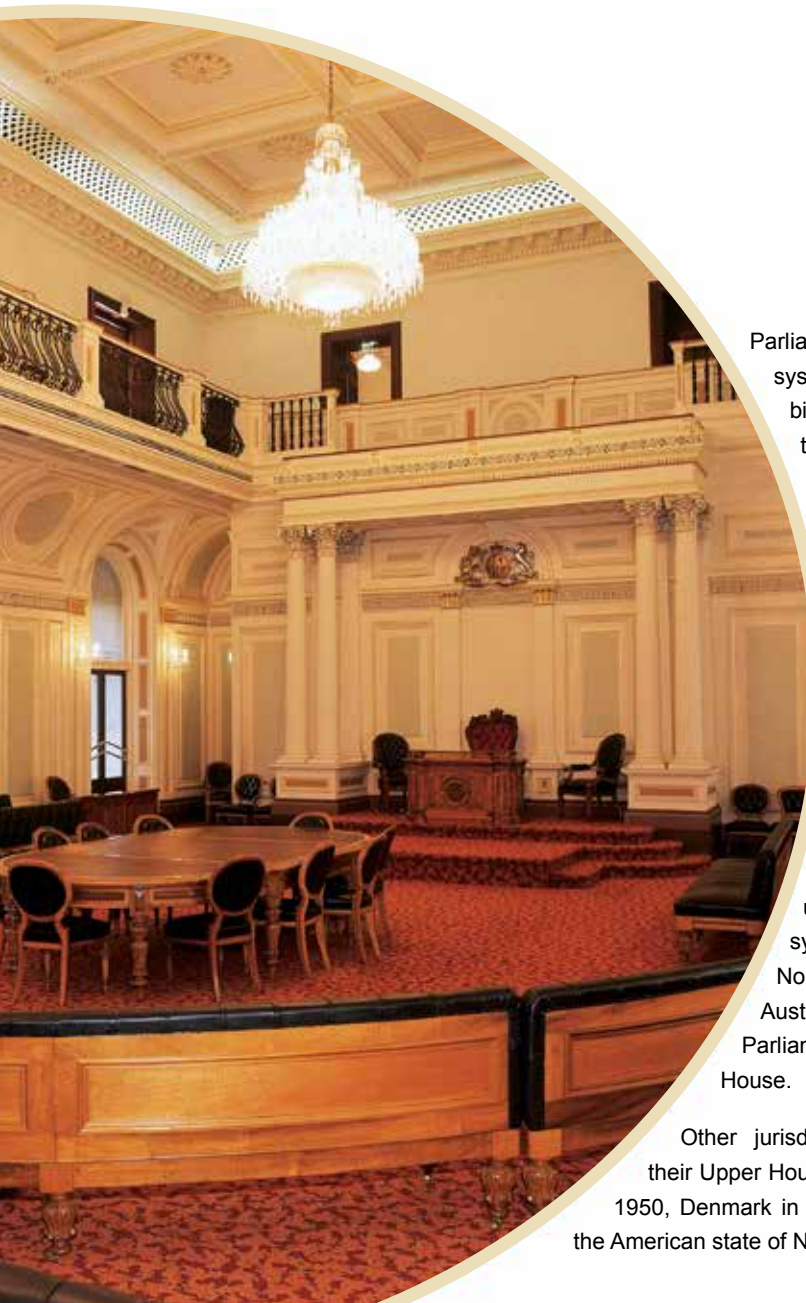


abolition

of the legislative council



Parliaments in the Westminster system are traditionally bicameral, meaning that they have both a Lower and Upper House.

However, Queensland's Parliament is comprised of only one House, the Legislative Assembly, following the abolition of its Upper House, the Legislative Council in 1922.

Queensland is the only Australian state to have a unicameral parliamentary system, however, both the Northern Territory and the Australian Capital Territory Parliaments also have just one House.

Other jurisdictions to have abolished their Upper Houses include New Zealand in 1950, Denmark in 1953, Sweden in 1970 and the American state of Nebraska in 1934.

the *first* queensland parliament



The first Houses of Parliament, the Military and Convict Barracks, now the site of the Queen Adelaide Building in Brisbane's Queen Street Mall.

Picture drawn by Mr E.P. Trewhern, Public Works Department.

Photos: John Oxley Library

Queensland's first Governor, Sir George Ferguson Bowen GCMG .

Governor Bowen had some difficulty in attracting men to sit in the new Legislative Council, noting that he could secure only 11 Councillors to sit in the Legislative Council *"for all the more active and influential politicians desire seats in the Lower House"*.

Bowen to Secretary of State, the Duke of Newcastle, 21 May 1860.

On 6 June 1859, Queensland was constituted as a separate colony from New South Wales by Letters Patent signed in London. A bicameral Parliament was provided with a Legislative Council appointed by the Governor and a Legislative Assembly elected on a franchise that favoured property owners.

The first Governor, Sir George Ferguson Bowen GCMG, appointed an interim Executive Council, which consisted of Queensland's soon to be first Premier Robert G.W. Herbert, Ratcliff Pring GQC and Robert R. Mackenzie, to administer the colony.

The first Parliament, consisting of 26 elected Members of the Legislative Assembly and 11 nominees appointed by Governor Bowen to the Legislative Council, met on 22 May 1860 in the converted Military and Convict Barracks building in Queen Street, Brisbane.

The initial Councillors were appointed for five years with all subsequent appointments made for life. The *Moreton Bay Courier* of 3 July 1860 was less than complimentary about the council membership:

"It is simply composed by gentlemen highly respectable no doubt, whose qualifications for legislative Office appear to be summed up in the fact that no constituency would have them... Our 'Second Estate' is merely an arbitrary selection from the ranks. No feats of arms, triumphs of intellect, or deed of patriotism afford reasons for the choice."

Further, one commentator observed that because all the best men of Queensland chose to sit in the lower chamber, he feared the Upper House could *"become a refuge for the politically destitute, a benevolent asylum for the reception of authors rejected addresses"*.

running battles

Parliament House, 1869 (George Street wing). The facade was added in 1877 for sun control. The building was extended to include the Alice Street wing in 1891.



Public debate about the problematic role of the Legislative Council remained a feature of colonial Queensland.

One of many major battles between the Assembly and the Council occurred in October 1885 when the Council sought to amend budget legislation and insisted that the Assembly accept its amendments.

It was then decided that opinion be obtained from the British Privy Council on the relative rights and powers of both Houses with respect to money Bills. In 1886, the Privy Council determined that the Legislative Council did not have the same powers as the Legislative Assembly to amend money Bills. The Legislative Council did not accept the ruling, thereby setting the stage for further disagreement with the Assembly.

The 1890s saw the rise of a labour movement with supporters prepared to strike for better wages and conditions, as seen by the 1891 and 1894 shearers' strikes. Queensland's Chamber of wealth and property was being challenged like never before by an Assembly increasingly representative of electors who were facing tough economic times.

Denigration of the Council and its members was frequent among the scribes of the *Moreton Bay Courier*:

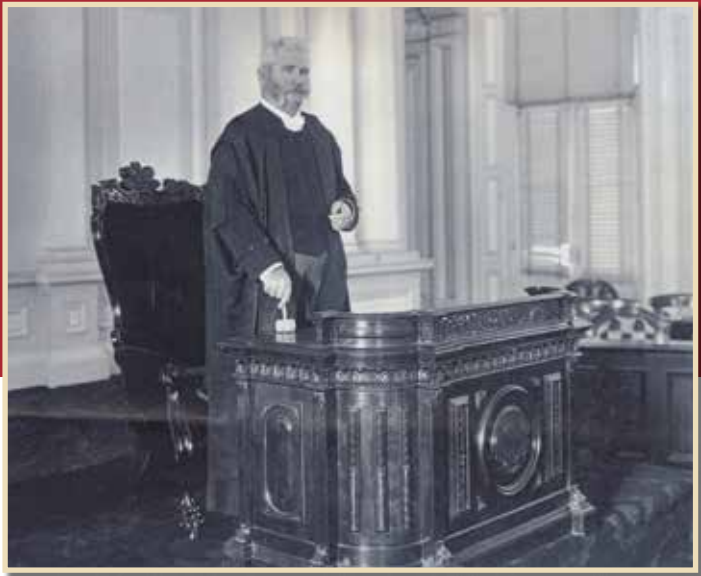
"... brainless gobemouches, political drones, servile renegades" and "needy vampires waiting to suck the nation's blood".

Moreton Bay Courier, 12 August 1861.

labor

calls for abolition

Sir Arthur Morgan,
Kt, President of the
Legislative Council,
19 January 1906 to
19 December 1916.



*The Parliamentary Bills
Referendum Act 1908 was
described by Attorney-General
Hon. J.W. Blair as possibly the
most important to have been
brought before the House at that
time. The Act proposed changes
to the constitution to enable a Bill
that had twice been rejected by the
Legislative Council to be put to a
referendum of the voters.*

With the establishment of the Labor Party in the 1890s came more calls to reform the Council. Several Bills were introduced between 1893-1908 to provide for the election of Legislative Council members, but for various reasons were never passed.

In August 1906, a Labor member of the Legislative Assembly moved that a Bill be introduced to abolish the Legislative Council because (1) it would be a positive economic step to take and (2) the Legislative Council had become a useless institution. The motion was not carried by the Lower House. However, during 1908, two important pieces of legislation were passed. The first was the *Constitution Act Amendment Act 1908* to remove the need to obtain a two-thirds majority of both Houses to alter provisions of the Queensland Constitution, including changes to the Legislative Council. The second piece of legislation was the *Parliamentary Bills Referendum Act 1908*.

The latter Act proved to be the trigger for the 1917 referendum.

labor *throws* down the gauntlet

Thomas Joseph Ryan,
Premier of Queensland
1915-1919.

Photo: John Oxley Library



Constitution Act
Amendment Bill
1915.

The Ryan Labor Government came to power in 1915 with a large majority in the Legislative Assembly but with only three members in the Legislative Council. Part of the Labor Party's 'fighting platform' was to abolish the Legislative Council.

The Legislative Council continued to be a thorn in the side of this reformist Government. Between May 1915 and December 1918, the Legislative Council rejected, or drastically amended, about 800 Bills, including Bills addressing major reform issues on health, industrial relations, the Criminal Code and local government.

The Labor Government became even more determined that the Legislative Council had to go.

Two methods for the Council's abolition were proposed:

- stacking the Legislative Council with Labor nominees who would carry measures to abolish the Council; or
- a majority of voters at a referendum supporting the Council's abolition.

On 12 November 1915, Premier Ryan introduced a Bill entitled '*A Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council*'. The Legislative Council rejected the Bill in early December 1915 by 26 votes to 3. The Bill was re-introduced into the Legislative Assembly by Premier Ryan on 14 September 1916 where it was passed but again rejected by the Council by 19 votes to 3.

Since the Bill had been twice rejected by the Council, the way was now open for a referendum of the people on the issue of abolition of the Legislative Council.

"The very fact that these various Legislative Councils in the different States are based either upon a narrow franchise, or on nominated Chambers necessarily makes them bodies which are not truly representative of the public opinion of the great masses of the people. They are the relics of feudalism...and... have now altogether outlived their usefulness."

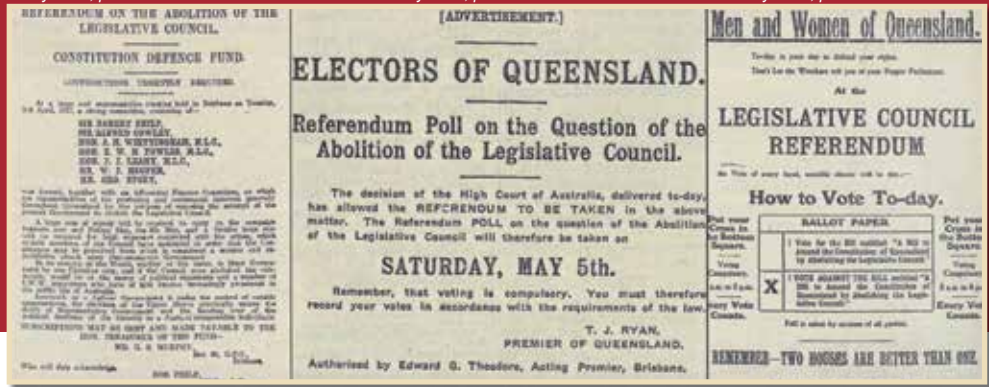
Premier T.J. Ryan, Second-Reading Speech,
Constitution Act Amendment Bill, 17 November 1915.
Queensland Parliamentary Debates.

1917 referendum doomed

'Constitution Defence Committee' advertisement. *The Brisbane Courier* 4 May 1917, p.6

Pro-abolition advertisement. *The Brisbane Courier* 5 May 1917, p.2

Anti-abolition advertisement. *The Brisbane Courier* 5 May 1917, p.7



"If you own anything at all and especially if you have a husband or a wife, and value your home then it is intensely to your advantage to stand by the Legislative Council."

Anti-abolitionist
The Brisbane Courier
5 May 1917, p.5

The Queensland Cabinet decided to save money by holding the referendum on the same day as the Federal election on 5 May 1917, together with another referendum about liquor outlets. The endeavour to abolish the Legislative Council by referendum failed. Nearly 61% of the voters were against the proposed Bill to abolish the Council. It seemed that Queenslanders were not yet ready for a single House of Parliament.

However, the defeat of the abolition proposal may have been influenced by a combination of factors as follows:



A ballot box similar to those used in the 1917 referendum.

Ballot box courtesy of the Electoral Commission of Queensland.

- Queensland Labor Party members were too busy with Federal election issues (the Federal election being on the same day as the referendum) to do much campaigning for the abolition of the Legislative Council, whereas there was an expensive and vigorous campaign by the 'Constitution Defence Committee' against abolition.
- A legal challenge to the validity of the abolition Bill was fought through the courts up until the day before the poll. The High Court finally decided that the referendum could go ahead and that the legal points would be determined later.
- The referendum question was stated in a way that may have been confusing to vote against the Council the elector had to vote for the Bill.
- To vote for retaining the Council and against the Bill, the voter had to mark the lower square. In the other referendum held on the same day, involving liquor outlets, a vote against reducing the number of outlets also required a mark in the lower square.

swamping (stacking) the council



The Brisbane
Courier
12 March 1918
p.9



The Worker
26 February 1920,
p.1

When the Parliament resumed in July 1917, Governor Sir Hamilton Goold-Adams agreed to Premier Ryan's request to appoint 13 Labor members to the Legislative Council. These new Labor members had signed a pledge to support the abolition of the Legislative Council.

In March 1918, the Ryan Labor Government was returned to power with an increased majority, holding 48 seats to 24 in the Assembly, thereby claiming that its landslide victory gave it a confirmed mandate to abolish the Legislative Council.

The process of abolition was set in train once more in 1918 with a *Constitution Act Amendment Bill* being passed by the Assembly but rejected by the Legislative Council. In August 1919, the Bill was introduced a second time into the Assembly but again rejected by the Council. However, while a referendum was the next step, it was never taken. It seems that the political preference was to achieve a Labor majority in the Council and not risk failure again in a referendum.

Premier Ryan retired from the Queensland Parliament in 1919. His replacement as Premier was Edward Granville Theodore, a vigorous and staunch abolitionist. William Lennon, the Labor Speaker of the Assembly, was then appointed as Lieutenant-Governor in the temporary absence of the Governor.

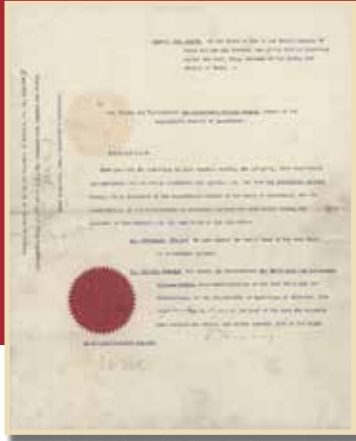
'Enter the People'

On 19 February 1920, as Lieutenant-Governor, Lennon appointed 14 new members to the Legislative Council to give Labor a majority in the Upper House.

lennon

appoints lennon

Minute appointing William Lennon as President of the Legislative Council signed by William Lennon.



*Your Excellency,
Be Seated!*

*Cartoon appearing in
the Brisbane Courier,
1920.*

"To our Trusty and Well-beloved the Honourable William Lennon, Member of the Legislative Council of Queensland.

Greeting.

Know you that We, confiding in your loyalty, wisdom, and integrity, have constituted and appointed...you, the said the Honourable William Lennon to be President of the Legislative Council of our State of Queensland..."

WILLIAM LENNON

Extract from Executive Minute appointing William Lennon as President of the Legislative Council.

On the death of Legislative Council President William Hamilton in 1920, the Theodore Government – through the Lieutenant-Governor – had the power to appoint William Lennon as President of the Legislative Council. However, it would not have been appropriate if William Lennon, Lieutenant-Governor, called William Lennon to the Council and appointed himself President.

Accordingly, Lennon conveniently suffered a sore knee and was sent across the border to the Tweed in New South Wales to recuperate. The Chief Justice was then called upon to act as Administrator. However, he flatly refused to sign the Executive Minute on the grounds that there were already too many members of the Legislative Council. The Minute appointing William Lennon as President of the Council was eventually signed by William Lennon.

Abolition of the Legislative Council was again part of the Labor Party's platform for the October 1920 election campaign. The Country Party supported abolition and replacement with an elected body with restrictive property franchise using proportional representation. The Nationalists did not agree with abolition at all, fearing that once gone the Council would never be restored. However, they supported making the Council elective.

Behind the scenes, Premier Theodore was reassured that objection from London to Royal Assent to an abolition Bill was unlikely and that colonial legislatures were 'masters of their own destiny'. Labor won the 1920 election narrowly and Premier Theodore believed he had the mandate to proceed with his plans for abolition of the Legislative Council.

abolition... finally

Edward Theodore,
Premier of Queensland
1919-1925.

The Labor representatives who accomplished the task of abolition of the
Legislative Council. Photo: *The Worker*, 16 March 1922, p.11.



On 24 October 1921, the *Constitution Act Amendment Bill* was introduced into the Legislative Assembly for the fourth time. In his second-reading speech, Premier Theodore argued –

"With regard to the Labor party's attitude in connection with the Legislative Council – the Hon. member for Bulimba wanted to know whether the Legislative Council was not now merely an echo of this Chamber. That is all it is, and that is why I say it is useless. If it is not an echo, it is an evil because it is obstructive. If it is an echo, it is no longer necessary."

As the Bill went into Committee, Opposition hecklers called out "Russia! Russia!", an obvious reference to the recent takeover of that country by Communists. But the second clause of the Bill, the one that dealt specifically with the abolition of the Council, was passed 51-15, 51 votes to 15. The third reading had a similarly easy passage.

The Bill then moved into the Legislative Council, where the Hon. A.J. Jones, Secretary for Mines and the only Cabinet member in the Council, introduced the abolition Bill for the third time in his political career. He said –

"To-day we advocate the abolition of the Council because of its uselessness. ... Until we had a majority here, it was obstructive, and now that we have a majority here it is useless."

Only 40 of the 56 Council members attended the beginning of the debate and two left before the end when the Bill was passed by 28 votes to 10. After the conclusion of the third reading, Hon. P.J. Leahy of the Opposition commented bravely and inaccurately that *"the day was not far distant when, phoenix-like, the Council would rise from its ashes and be restored"*.

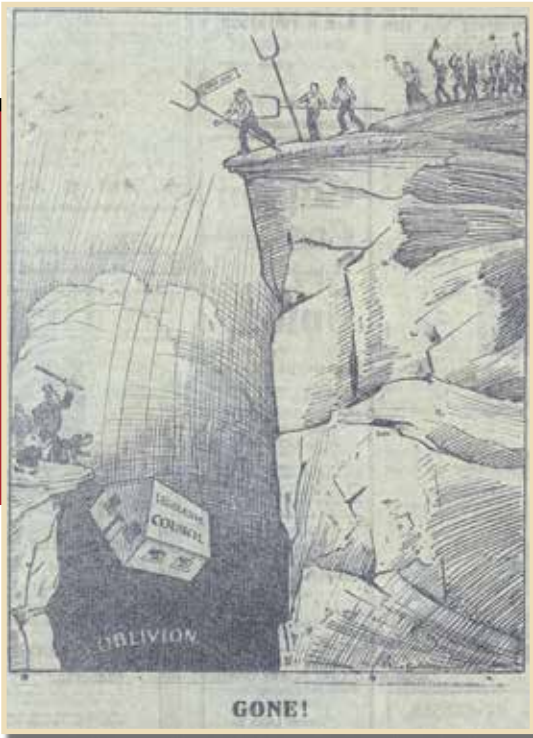
The Council met for the last time on the afternoon of 27 October 1921, adjourning at 8:37 pm that evening.

"If we abolish this Chamber, and we have only a single chamber, the other chamber will be able to do what it thinks fit. It will be able to prolong the life of Parliament indefinitely, raise their salaries to even £2000, prevent the Auditor-General giving us reports, control the judiciary, and carry out the instructions of the Labour conferences."

Hon. P.J. Leahy, Opposition Second-Reading Debate. *Constitution Act Amendment Bill*, 26 October 1921. *Queensland Parliamentary Debates*.

eight

gone!



The Worker
3 November 1921,
p.1.

"After careful consideration of all the circumstances. I cannot but regard the matter with which the Bill deals as essentially one for determination locally."

Mr Winston Churchill to King George V,
Queensland Parliamentary Papers, 1922,
pp. 21-65.

The opponents to abolition did not give up the fight and appealed through the Governor to the British Government by Memorial and Petition to intervene before the Bill was given Royal Assent.

In the Petition, former Councillors argued that the abolition *"intimately affects the Federal relationship with the Commonwealth of Australia and ... is a matter of Imperial concern."*

Premier Theodore presented a Memorandum to the Governor containing his observations on the Memorial and Petition. He listed the many Bills that had been mutilated or rejected by the Council since Labor had been elected. He affirmed *"[i]t is not a fact historically that the bicameral system with a nominee chamber has worked satisfactorily in Queensland"*, and that *"the principles of the Bill do not in any way impinge on Imperial interests."*

Governor Nathan forwarded all the documents to the British Secretary of State for the Colonies (and future British Prime Minister) Mr Winston Churchill. In doing so, Governor Nathan commented *"... I am unable to say that there is evidence of any very strong or widespread feeling in the country against this assent being given."*

Royal Assent was given on 3 March 1922 and the Act was proclaimed on 23 March 1922.

With the abolition of the Legislative Council, the most important single constitutional reform in Queensland history had occurred, and, in the words of the historian Dr D.J. Murphy (1980), 'the dominance of wealth and property over the Queensland parliament' was broken.

attempts to *restore* the legislative council



The theme of this Labour Day procession float in 1923 was the Nationalist and Country Party's promise to restore the Legislative Council.

Photo: Labor in Power: The Labor Party and Governments in Queensland 1915-57, 1980, D.J. Murphy, R.B. Joyce and Colin A. Hughes (eds), p.110.

Re-establishment of an Upper House remained a feature of the election platforms of the anti-Labor parties. In 1929, the Country Party prepared a draft Bill providing for the restoration of the Legislative Council without going to a referendum, but containing a provision preventing the Bill from being amended or repealed unless a referendum was held.

In 1934, however, through the *Constitution Act Amendment Bills*, Premier Forgan Smith's Labor Government removed any threat that the Legislative Council would (or could) be revived. The Opposition forces boycotted the Bill, sitting coldly and silently throughout the second-reading debate.

In more recent times, consideration of the consolidation and review of the Queensland Constitution has been undertaken by:

- the Electoral and Administrative Review Commission (1993),
- the Parliamentary Committee for Electoral and Administrative Review (1993-1994),
- the Parliamentary Legal, Constitutional and Administrative Review Committee (1996-2000), and
- the Queensland Constitutional Review Commission (1999-2000).

The *Constitution of Queensland Act 2001*, consolidated and modernised existing constitutional provisions. However, entrenched provisions, such as Section 3 of the 1934 *Constitution Act Amendment Act*, which cannot be repealed or amended without the approval of the electors at a referendum, remain.

In 1934, the Parliament passed the Constitution Act Amendment Act. Section 3 provided that the Legislative Council could not be restored without the approval of the electors at a referendum.

abolition

of the legislative council



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