



**Reflect, celebrate, imagine:
commemorating the bicentenary of the New South Wales Legislative Council**

The Hon Ben Franklin MLC, President

Legislative Council
Parliament of New South Wales

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Introduction

On 19 July 1823, an Act passed by the British parliament “to provide for the better administration of Justice in New South Wales and Van Diemen’s Land, and for the more effectual Government thereof and for other purposes relating thereto,” received Royal Assent. The Act provided for the establishment of two significant New South Wales (NSW) institutions: the Supreme Court and the Legislative Council. In accordance with the provisions of the Act, on 19 January 1824 King George IV by Warrant constituted the first Legislative Council and appointed the first five Members to serve in the Council. They were:

- Principal Surgeon James Bowman,
- Chief Justice Francis Forbes,
- Colonial Secretary Frederick Goulburn,
- Surveyor General John Oxley, and
- Lieutenant Governor William Stewart.

These five men, all holders of key public offices in the colony, were to be consulted by the Governor before new laws were made; however, they could not initiate or veto legislation.

From these modest beginnings, the Parliament of NSW has evolved into one of the most innovative, robust and mature parliaments in the Commonwealth. It is the oldest parliament in Australia, the second oldest parliament in the Commonwealth still meeting in the same location and a world leader in the means by which it holds the executive government to account. In the words of a familiar song, ‘From little things big things grow’.

This year sees the Council’s 200th anniversary. My predecessor, Matthew Mason-Cox, and myself had an over-riding vision for the commemoration. We did not want it to be a formulaic, unreflective, non-inclusive celebration of one version of the past; neither did we want it to be a denigration of a real story of democratic progress. So, the bicentenary of the Legislative Council has provided a valuable opportunity to reflect on the Parliament’s origins, development and legacy; to celebrate the vibrant democratic institution that it has become (and thereby to celebrate parliamentary democracy more generally); and to imagine what the parliament of the next 200 years might become. ‘Reflect, celebrate, imagine’ is the framework for commemorating the bicentenary.

Reflection

Of all of the provisions of the New South Wales Act of 1823, only one, clause 24, deals with the Legislative Council. The overwhelming majority of the provisions are concerned with the Supreme Court and the legal system, with the Legislative Council looking almost like an afterthought. Some questions immediately arise. Why was this fledgling legislative institution included in the Bill at the last minute? What was it intended to achieve? What has been its legacy? And how did it evolve into the highly functioning bicameral NSW parliament of today? These questions have all been the subject of careful reflection over the last two years.

Over two days in late 2022 a panel of leading colonial historians and others explored the theme, *The State of the Colony: People, Place and Politics in 1823*. This conference set the scene for the bicentenary by considering the context for the establishment of the Legislative Council some 35 years after European settlement in Sydney. The experience of Sydney’s First Nations coastal people with the colonists and later with sympathetic politicians was explored. A panel of historians discussed the Bigge inquiry, which was a comprehensive audit of the colonial administration under Governor Lachlan Macquarie, which effectively and unfairly “did a job” on the former Governor’s

grand vision for the colony and called for change. In other sessions, historians sought to paint a picture of the reality of life in the early colony, covering such themes as suicide and sexual violence. The contributions of significant female figures were also highlighted.

In late 2023, the second of our history conferences took a deep dive into the New South Wales Act of 1823. Again, a distinguished group of experts participated in a wide-ranging discussion which included the international trading context and connections between reform to public administration in NSW and in other parts of the British Empire. The tortuous passage of the New South Wales Bill through the House of Commons and House of Lords was described and the provisions of the Act analysed.

The significance of the Act for the Supreme Court and the legal system in the colony was also highlighted - this second conference being held in conjunction with the Supreme Court with a standout session being hosted by the Chief Justice and two former justices of the Court. The role of specific individuals, notably the architect of the Act and future Chief Justice, Francis Forbes, in the provisions for a Legislative Council was acknowledged, and historians, MPs and others explored the purpose and early work of the Council and the context in which it operated.

What became evident from both of these conferences was that the establishment of the Legislative Council was not primarily designed to be a significant check on the previously untrammelled power of the Governor. Rather it was a means of ensuring the validity of law-making undertaken by the Governor and of the laws of the colony. Against the backdrop of momentous global events, including the revolutions which had occurred in France and America, the establishment of the Council was a cautious and conservative reform. It would be another 19 years before the first elections in NSW and another 13 years again before the establishment of responsible government in the colony in 1856. When did the Council become a truly democratic institution? That question depends on the definition employed and remains to be definitively answered. Some would argue it was not until 1978, when direct election by a system of proportional representation was established.

Both history conferences provided an opportunity for serious reflection and new scholarship on these subjects. In order to ensure that the insights gained and shared through the conferences were made as widely available as possible, transcripts of the conferences were produced by Hansard and have been edited by former Parliamentary Historian, Dr David Clune OAM, and published as:

- *The State of the Colony: People, Place and Politics in 1823*, and
- *The Spark: The Act that brought Parliament and the Supreme Court to New South Wales*.¹

The final event in the bicentenary program is our third history conference in December 2024, providing a final opportunity for reflection on the significance of the bicentenary, the broad sweep of the development of parliamentary democracy in NSW, and imagining the future of democracy in our state.

Engaging with First Nations peoples

The Parliament of NSW has a complex history with the State's First Nations peoples. Some of the decisions of the Parliament, such as the enactment of the *Aborigines Protection Act 1909*, amendments to that Act over the years and its maintenance in place until the early 1970s, have a

¹ These volumes form parts 3 and 4 of a booklet series that to date has also captured the first bicentenary exhibition, 'Unlocking the House' (volume 1, and discussed below) and the transcripts of the *Immortals* video series, which tells the stories of the figures depicted in the marble busts which line the Legislative Council walls (volume 2).

had a profound, disturbing and ongoing impact on First Nations peoples. Notwithstanding significant positive reforms in more recent years, such as the *Aboriginal Land Rights Act 1983*, the election of the first Aboriginal MP in 2003 and the *Aboriginal Languages Act 2017*, the Parliament's legacy in relation to the State's Aboriginal peoples remains vexed.

We have therefore made a sincere and concerted effort to engage with First Nations people and to ensure their voices are heard during the course of the bicentenary. Former President Mason-Cox consulted with representatives of the Sydney Metropolitan Local Aboriginal Land Council, the La Perouse Local Aboriginal Land Council, the NSW Aboriginal Land Council and the NSW Council of Aboriginal Regional Alliances in formulating the initial bicentenary program. That ongoing consultation has continued.

One particularly exciting and tangible outcome of this consultation has been the commissioning of a new, significant Aboriginal Artwork, to be prominently displayed in the Parliament's "Fountain Court" public foyer. Aboriginal artist Kim Healey, a proud Gumbaynggirr and Bundjalung woman, is currently completing the work, which will be entitled *Ngurra Jagun*. It will inspire deep reflection on our past, present and future, and on the deep connection of our State's First Nations people with the land and waters on which we live and on which the Parliament meets.

The commissioning process for this artwork also identified other Aboriginal artists who have since exhibited in the Parliament's popular exhibition spaces, the Fountain Court and the Reconciliation Wall. These include Gamilararray artist Juanita McLachlan's installations and works *Standing At The Heart of Seven Generations* and Gadigal artist Kate Constantine's exhibition *Yagu, Gadigal dulumi, Gadi yuwing ngubadi* (translation: Today, the Gadigal give you for no expected return, Gadi truth and love).

Another area of significant reflection together with First Nations peoples relates to the other things occurring in the colony at the very time the Legislative Council was established. On 14 August 1824, 11 days before the first meeting of the Council, Governor Brisbane declared martial law west of the Blue Mountains. Whilst the early expansion of the colony into the central west between 1815 and 1822 saw largely peaceful relations between the colonists and the Wiradjuri people, the rapid growth in the population of both sheep and settlers in 1822 and 1823 led the Wiradjuri to declare war on the settlers. In response to the loss of lives and livestock, and the serious threat to the ongoing viability of the settlement of Bathurst, martial law was declared. Following a bloody campaign, in December Wiradjuri leader Windradyne came down to Parramatta with 100 warriors to acknowledge defeat. This period is known in Wiradjuri as the "Gudyarra." These matters were the subject of two motions debated and agreed to concurrently in the Legislative Council in March 2024. The motions called attention to the link between the expansion of the settlement and the establishment of the Council, and the proximity of the declaration of martial law to the first meeting of the Council. Consequently, the Members who had moved the motions, the Clerk, other senior parliamentary staff and I met in May 2024 with a group of Wiradjuri Elders in Bathurst to learn more and we will be holding a bicentenary seminar on the "Gudyarra" at Parliament House in September. The Elders have described this seminar as an important example of "truth telling."

Seminar series

This seminar on the "Gudyarra" is one of a number of bicentenary seminars held over the coming months. These seminars seek to highlight diversity and representation across the Legislative Council's history, and provide a platform for important (and sometimes sobering) conversations that until now have not occupied a prominent place in the Parliament's telling of its history and development. The first seminar featured four current and two former Members and took a whistle-stop tour through

the Council's recent history and operations, featuring perspectives from both major party and cross bench representatives. Other seminars will focus on LGBTQIA+ representation, social change and law reform (in collaboration with representatives of the Supreme Court), and the engagement of the Council with culturally and linguistically diverse communities.

These seminars have been an effective mechanism for attracting new audiences and for providing members of the public with a behind-the-scenes insight into the often surprising ways that the Council's diverse membership works together across political, social and other divides to achieve impactful and meaningful social and legal change. The transcripts of these seminars are being published to provide a lasting scholarly legacy charting the Council's evolution and key reforms.

Parliamentary Democracy at Work

To aid in the process of reflection on recent procedural developments in the Legislative Council and to leave a lasting legacy of scholarly reflection, the Council is publishing a book, *Parliamentary Democracy at Work: essays on the Legislative Council of NSW* co-edited by the Clerk, David Blunt AM, and former Parliamentary Historian Dr David Clune OAM. It contains 41 essays, most of which originated as conference papers delivered at Presiding Officers and Clerks Conferences, Australasian Study of Parliament Group conferences, or legal seminars, or published in scholarly journals. The subjects dealt with include: the history of the Legislative Council; unusual sittings and events; the transparency agenda; a robust committee system; parliamentary privilege; and a clerk's eye view of proceedings. With two earlier works - D Blunt and S Frappell, *New South Wales Legislative Council Practice* (Federation Press, 2nd edition 2021) and J Morre, S Want and D Blunt, *Annotated Standing Orders of the New South Wales Legislative Council* (Federation Press, 2018) - this book completes a comprehensive trilogy on all aspects of the Council.

Online resources

A key aim of the bicentenary has been to produce content which will provide lasting and, most importantly, accessible educational resources for a broad audience into the future. To date, an interactive timeline has been made available on the Parliament's website, and short videos have been produced explaining the history of the Legislative Council (in just six minutes) and the first five members of the Council. Further videos explaining topics such as the operations of the House, office holders, procedure and protocol are planned for release as the Parliament moves closer toward the commemorative opening of parliament planned for October.

Celebrate

Notwithstanding the complexities of our colonial past and the positive and negative legacy of our history, the vibrancy of parliamentary democracy in NSW is worth celebrating. The peaceful transition of power after elections, growing community engagement with parliamentary proceedings, and the robust and unique mechanisms developed to hold the executive government to account are all significant achievements.

The actual bicentenary of the first meeting of the Legislative Council, Sunday 25 August, will be Back to Parliament Day. Current Members of both Houses and current staff from the three parliamentary departments will be encouraged to bring in their family and friends to show off their place of work, and former Members and staff will also be invited. It will also represent Back to Parliament Day for the community, as the parliamentary precincts are fully open again after an extensive program of heritage restoration work.

The Parliament's Fountain Court and Reconciliation Wall exhibition spaces have been, and will be again, brought to life with stories that capturing key milestones, galvanising figures, special anecdotes and curiosities from across the Legislative Council's 200 years. In 2022, the Council unveiled its first exhibition, *Unlocking the House*, presenting 10 unique stories which unlocked parliamentary practice, tradition, representation and social change from the early colonial days to the present. In 2024, the Council will unveil its second exhibition which will focus on five key themes: the evolution of the Council; protocol and pageantry; powers and privileges; representation; and Aboriginal representation and engagement. These themes will be brought to life with stories, anecdotes, archival images and items drawn from the Parliament's collection and those of neighbouring institutions.

Imagine

Regional Roadshows

What better way to think about the future of democracy than engaging with young people from around the state? Between April and August 2024, the Council held six "regional roadshows". Each roadshow takes the Legislative Council to a different part of the state: Lismore, Port Macquarie, Bathurst, Batemans Bay, Armidale and Wagga Wagga. Youth are at the centre of each roadshow with day one commencing with a public speaking competition involving senior students from local High Schools and Colleges across the entire region. The standard of competition has been very strong, with winners from each roadshow chosen to participate in the finals to be held in the Legislative Council chamber on Back to Parliament Day.

On the evening of day one, there was a youth forum involving young leaders from local schools. Between 30 and 40 students participated in each of these events, which were jointly chaired by the President and the local MP. Once again, the students were most impressive, with wide ranging discussion from current issues of particular concern in each regional area, such as how to best engage young people with politics and public service, to the qualities that young people want to see in future political leaders. Day two was more nuanced, depending on local factors, and included: workshops in schools with legal studies students, community forums and a half day version of the Council's "LC in Practice" seminar.

67th Commonwealth Parliamentary Conference

The NSW Branch of the Commonwealth Parliamentary Association (CPA) has the distinct honour of hosting the 67th Commonwealth Parliamentary Conference (CPC) and CPA General Assembly in November 2024. The conference will take place from 3-8 November and will bring together up to 800 parliamentarians, Clerks and observers from across the 180 member parliaments in 56 Commonwealth countries. The theme of the conference is *Engage, Empower, Sustain: Charting the course for resilient democracy*. The conference will provide an opportunity to not only showcase and celebrate the vibrancy of parliamentary democracy in NSW but also to imagine the future of democracy and how to ensure its resilience in the face of current and future threats.

Preparing for the future – preserving Australia's oldest public building

The Parliament of NSW has met continuously at its current location in Macquarie Street, Sydney, since 1828. In the years since, the parliamentary precinct has undergone many changes, including the addition of first one and then a second chamber, and a library, through to the major redevelopment of the precinct and the adding of the tower block containing Members' offices in the late 1970s. Since then, however, heritage restoration work had been piecemeal and occasional due to the constraints of limited funding. Former President Mason-Cox was determined that the

bicentenary of the Legislative Council be leveraged to obtain funding to provide for a once in a generation heritage restoration program to be undertaken.

Some \$20 million in capital funding was secured from the NSW Government. The resulting works have included painstaking restoration of the parliamentary chambers, and the original "Rum Hospital" part of the original building, as well as restoration and updating of the colour scheme of the Macquarie Street façade. All works have been completed on time and on budget to an exceptionally high standard. The Department of Parliamentary Services recently won a National Trust 2024 heritage award for the internal chamber works, and came a very close second for external projects for the works on the Macquarie Street facades. We are all immensely proud of the work undertaken and feel pleased that we have appropriately discharged our obligations as current custodians of these significant heritage items.

Conclusion

This is a time when the value of parliamentary democracy is being widely questioned and challenged. I hope that the celebratory but also reflective nature of the Legislative Council's bicentenary program will reach out and re-invigorate respect for the positive story of the growth and on-going value of the Parliament of NSW.