

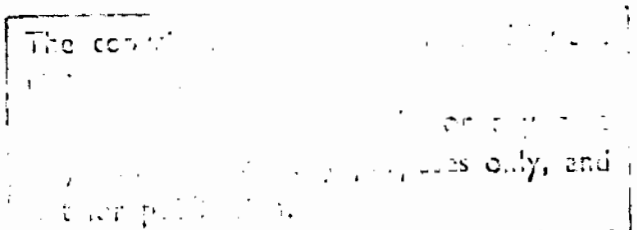
T H E W O R K I N G
of
R E P R E S E N T A T I V E G O V E R N M E N T A T T H E C A P E

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A Thesis presented for the degree of M. A.
at the University of Cape Town, 1940

by

M. J. ZEEMAN.



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P R E F A C E

This essay is an attempt to describe the form of government that existed at the Cape from 1862-1870, and to explain why a system that appeared to work well from 1854 to 1861 should become unmanageable in the latter 'sixties. I have examined the functions of the Governor, the Executive and the two Houses of Parliament, and described their relations to each other and the British Government. Finally, I have tried to show what circumstances were responsible for the friction between the Executive and the Legislature during this period.

The material used has been taken from both official and unofficial sources. I have studied the views of the members of the Executive and the working of the administration in the Government House records, especially in the correspondence between the Governor and the Secretary of State for Colonies, and in the Minutes of the Executive Council, both of which are in the Cape Archives.

Sir Philip Wodehouse was in the habit of writing private letters to the Secretary of State whenever he did not wish his views to be published. Unfortunately most of his papers were destroyed in 1915, but the small bundle unearthed by Mr. C. W. de Kiewiet, and now in the Public Record Office, London, would have been of great value to me. Being unable to consult these letters I have made as much use as possible of de Kiewiet's work on them. The loss in this respect has been somewhat mitigated by a study of the semi-official correspondence of the Colonial Secretary, Richard Southey, which is in the Cape Archives. Southey, who had lived in the colony for forty-four years before he became Colonial Secretary, had many friends in all parts of the country, both in and out of the public service. The eighty or ninety letters which he received every month, a

few from Wodehouse, many from the judges of the Supreme Court, the Civil Commissioners, Members of Parliament, or influential friends, and more especially his replies to these letters, give useful information on the government attitude towards important ~~important~~ questions.

The parliamentary view-point has been studied in the Votes and Proceedings of Parliament and in their various annexures and appendices; and in the newspaper reports of debates - there being as yet no official Hansard. The reports have been taken regularly from the "Cape Argus", except those for 1864, when the session was held in Grahamstown, when the "Great Eastern" was used.

I have read newspaper comment, both Conservative and Liberal, Eastern and Western, but I have quoted more frequently from the Cape Argus than from any other paper; because after 1863, the Argus was owned by Saul Solomon, the least biassed of all the Members of Parliament, and edited by Professor Roderick Noble of the S.A. College. I therefore thought that this paper would be more likely to treat matters fairly than those with definite party leanings.

The date of a debate is always different from that of the newspaper in which it is published, I have therefore given the date of the paper first, followed by the date of the debate in brackets .

The following abbreviations have been used in the footnotes :-

- C.A. Cape Argus
- G.E. Great Eastern
- G.H. Government House (Volumes in the Cape Archives)
- C.O. Colonial Office (Ditto)
- Ex.Co. Executive Council (Ditto)
- C.H.B.E. Cambridge History of the British Empire
Vol. VIII.
- G.G. Government Gazette
- V & P. Votes and Proceedings

Cape Blue Books are labelled G. A or C, according as they are published by order of the Governor, the House of Assembly, or the Legislative Council. Imperial Blue Books are not referred to in the footnotes.

Books listed in the bibliography are referred to by the author's name only, unless the same author has written more than one book, in which case the titles are also given.

Throughout this essay the term 'Colonial Secretary' denotes the chief administrative officer of the Cape Government, and the British Secretary of State for colonies is referred to as the 'Secretary of State'.

M. J. Zeeman.

I N T R O D U C T I O N .

CONDITIONS AT THE CAPE IN 1862

1. Racial Problems :

Dutch and British - Separation and Federation
European and Native - British Kaffraria

2. Grey's Administration: -

His treatment of parliament
The state of finances in 1862
Lack of supervision over Government Departments

3. The backward state of the colony - difficulty of
communication.

I N T R O D U C T I O N .

The Cape of Good Hope in the nineteenth century was known as the grave of reputations, because many of her Governors failed to master the problems facing the government of the colony, and were recalled. Foremost among these problems were those of colour and race, arising from the relations between the coloured and European colonists and their constant fear of attack from the Bantu tribes that seethed on the borders; and the antagonism between the English and Dutch in the colony itself, aggravated on the one hand by the aggressive British descendants of the 1820 settlers, and on the other by the proximity of the Boer Republics.

The conflict between the Dutch and English interests in the colony found its outlet in the movement for the separation of the newer Eastern districts from the original Dutch settlement in the West. The English frontiersmen desired the formation of a colony in the East with a separate administration and parliament, as they thought that the government at Cape Town was too far away to understand their problems. They claimed that the population of the East exceeded that of the West, and so did the amount of livestock; that the imports and exports of Port Elizabeth equalled those of Cape Town, and that the East was therefore as prosperous as the West and able to support a separate government; and that the vigorous Anglo-Saxon population of the East was supporting the easy-going Dutch of the West. These arguments were unsound, for the Eastern population consisted mostly of raw natives, and the trade of Port Elizabeth was largely dependant on the Dutch Midland districts and the Orange Free State.

However, the lack of communications and the difficulty of obtaining capable men to represent the East in Parliament led Sir George Grey to favour the establishment of a local government. He hoped that the Eastern and Western districts, British Kaffraria, Natal and the Orange Free State would all form provinces of a South African federation under British sovereignty, a federation strong enough to tackle the common native problem. But the British Government refused to accept responsibility for this scheme, and the separation movement grew in magnitude and the natives remained the chief obstacle to the peace of mind of the Cape administration.

The colour problem was two-fold; the regulation of relations between the Europeans and their coloured and Bantu servants within the colony, and the more difficult task of controlling the natives beyond the border. When a parliament was created at the Cape in 1854, the lands between the Keiskama and the Kei rivers were formed into the crown colony of British Kaffraria under the jurisdiction of the High Commissioner, so that the British Government could control native policy without reference to the Cape Parliament. (1) The little colony was supported by a grant of £40,000 a year from the British treasury, which enabled Grey to carry out his policy of civilising the natives; and defended by Imperial Troops, which also patrolled the lands between the Kei and the Bashee, vacated by the natives after the Kaffir War of 1853. In British Kaffraria, after the cattle-killing had released the pressure in the crowded native territories, and reduced the Bantu population by 68,000, Grey laid the foundations

~~(1) Walker's History of SA 199~~

(1) C.H.B.E. p. 392

of his scheme of settling Europeans and friendly tribes in blocks interspersed with hostile tribes, hoping in this way to prevent the massing of Xosa tribesmen which occurred before irruption into the colony. After the failure of his federation scheme he tried to push his native settlement through no-mans-land to the borders of Natal and made a few tentative arrangements for the settlement of the vacant Transkeian lands. (2)

Wodehouse on his arrival was faced with clamours for grants of land in the Transkei from the colonists and Kaffrarians, natives in the reserves made restless by the growing strength of Krelli and the extra-colonial tribes who were recovering from the cattle-killing, and the withdrawal of the Imperial grant to British Kaffraria. The objections of the new general commanding the forces, Sir Percy Douglas, to the Bashee as a line of defence, and the philanthropic agitation against depriving the natives of more land, led the British Government to order the abandonment of the Transkei, leaving Wodehouse to suffer the reproaches of the colonists. He was now faced with the problem of British Kaffraria, an undeveloped colony no larger than one of the Cape fiscal divisions, with only 6,000 European inhabitants, quite unable to support its elaborate crown colony institutions, and in danger of becoming a commercial rival to the Cape. (3) He saw that the only solution was annexation to the Cape, a course abhorrent both to the Kaffrarians who cherished their independence and to the Western majority in the Cape Parliament who feared that such a move would strengthen the Eastern party. This question led to a clash between Governor and Parliament which could not be overcome without straining to the utmost the Governor's powers under the constitution. (4)

2) Walker : History of S.A. p.299
 3) G.H. 31/9 Wodehouse to Buckingham, No.122 of 16/9/63
 4) See Chapter 4

Within the colony the problems of administration were increased by the system of government set up under letters patent in 1854. The legislature consisted of the Governor and two elective Houses, while the administrative officers who, with the Governor, formed the Executive were appointed by the Secretary of State for the colonies. This system, which had led in England to the execution of Charles I, and in America to the loss of the British colonies, was notoriously open to deadlocks between Executive and Parliament.

Grey had made the system work smoothly by tactful flattery of parliament and lavish expenditure. He agreed with everything that was said to him until no-one knew what he thought, and taught parliament to have an exaggerated idea of its own importance by treating it with great deference and respect. (5) The revenues were increasing, the Cape was passing through a period of prosperity and it was possible to allow members of parliament to obtain bridges or gaols or magistrates for their several localities, and so keep them in good humour. Moreover Grey did not have to levy taxes, there was sufficient revenue for the payment of current expenses and some over for extension of establishments. Public works, which by improving conditions should increase revenue, could legitimately be financed by loans. In 1866 the Colonial Secretary said of the period :

5) G.H. 31/9. Wodehouse to the Secretary of State, No. 48 of 3/8/69.

"Judging from all the information I have received, it seems clear that those who were entrusted with the Executive Government at the time of the introduction of the Parliament, took very wide views of its functions and privileges, and held themselves bound to pay great deference to its wishes, rather than to exercise a steady control over its acts."

Also C.O. 5856 D. Southey to B.H. Darrell 5/2/67.

"unfortunately the government of the day seemed to fancy that our prosperity was to be so great as to render any attempt, even to hold the reins a little tight, unnecessary" (6)

The sessions of parliament never, like those of lower Canada, degenerated into a scramble to divide the spoils among the different constituencies, but the expenditure increased rapidly. The country was opened up by roads and surveys, arrangements were made for the construction of telegraph lines and even railways, but instead of the expected prosperity, bad seasons descended on the Cape, and the revenue of a colony devoid of industries and dependent entirely on its agricultural community, sank lower and lower.

When Wodehouse arrived in the colony he was faced with a capital debt of £777,550, or 148% of the annual revenue which had dwindled until it was quite incapable of meeting the expenditure necessitated by the overgrown establishments. The Executive and Parliament were already quarrelling over finance, and taxation was necessary. (7).

There was little to show for the large expenditure. Sir George Grey has been well described by one of his officials :

"He was a large souled and noble-minded philanthropist, and these feelings led him to attempt too much. His plans and schemes were all of a most gigantic nature and magnitude, and hence were sure to fail in such a country as South Africa. And his mind being entirely occupied with his great schemes, he neglected to carry out these lesser, but to us far more important measures which he might have effected." (8)

The administration inevitably suffered as a result of this attitude. The civil commissioners in the districts practised mild forms of corruption, there was a great deal of extravagance, and the control of the departments of government was lax.

6) C.O. 5856 C. Southey to Erskine, 7/8/66

7) The Blue Book of the Cape Colony 1861

8) C.O. 6192. J.C. Warner (Tambookie Agent) to Southey 16/5/62.

The most glaring case of mismanagement was in the office of the Colonial Engineer, which corresponded to the modern department of public works. As the Grey administration had encouraged a large construction of **roads** and public buildings, the work in the office increased rapidly and overwhelmed the pleasant, extravagant, and not very efficient Colonial Engineer. The rest of the executive paid little attention to what was happening. Large sums far exceeding the **original** grants voted by parliament were spent, and the work was so badly and carelessly carried out that further expenditure had to be incurred on alterations and repairs. In the latter fifties £200,000 was spent on the construction of gaols. Immediately their roofs started to leak and had to be replaced at great expense, a certain member of parliament claimed that their walls could be broken with a spoon, and by 1864 the Colonial Secretary felt that they had been "expressly planned to afford facilities of escape". (9) The inefficiency of the department became an immediate source of embarrassment to Wodehouse, for in 1863 the House of Assembly passed a vote of censure on the government for its lack of supervision of public works, and the Governor was forced to dismiss the Colonial Engineer and disclaim responsibility for what had happened before his arrival in the colony.. (10)

The need for administrative reform was urgent, and was discussed in parliament as a corollary to responsible government. Grey's recall in 1859 made matters worse, for on his reinstatement he returned to the colony an "altered man, interested in nothing but his own misery", (11) During his

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- 9) C.O. 5856 B. Southey to Campbell (.C.C. of Port Elizabeth C.A. 26/5/63 21/10/64)
- 10) G.H.31/9. Wodehouse to Sec.of State No.50 of 2/5/63 and No. 58 of 21/5/63.
- 11) Wilnot : Southey p.125, quotes a letter from Rawson (the Col.Sec.) to Southey (the Acting Col.Sec.) Rawson continued: "I never troubled him with anything I could settle myself without speaking to him."

absence and after his departure for New Zealand, the colony was administered by General Wynyard, rather a timid old muddler, so that for two years before the arrival of Wodehouse there was virtually no control or guidance from the head of the government.

Even without these complications the Cape of Good Hope was no sinecure for any Governor. A colony large in extent with a density of population of only 2.14, in which Cape Town and Port Elizabeth were the only large towns, the rest of the population being scattered over the country, would have been difficult enough to administer. The soil, except in the Western districts, was not sufficiently fertile for remunerative cultivation, and many pastoralists leased crown land by the year for grazing stock. This meant that the population was not even stationary. It was difficult to keep in touch with the centres of local government, for posts were slow and infrequent, and roads were few and very bad. Even the best were little better than tracks, and a six-day journey from Cape Town to Beaufort West was considered very quick. (12) The circuit judges and members of the bar travelled by ox-wagon and if, during the wet season, a river ford was flooded, they had the choice of swimming on horseback or being hauled across a life line in a precarious basket. Not even the insistence of the general commanding the forces could procure a bridge across the Fish River drifts.

This was to be the unprepossessing field of work for Wodehouse. He found a backward agricultural community suffering from drought and depression, burdened under chaotic finances and ^{an} inefficient administration, politically split on racial lines, and living in constant dread of the menace from beyond the frontier. It is not altogether surprising that the next nine years form a dismal period of South African history and that the nicely balanced constitution came near to deadlock.

12) Duff Gordon pp. 123 and following.

C H A P T E R 1.

THE GOVERNOR - SIR PHILIP WODEHOUSE.

1. The Office of Governor - his position.
 2. The Governor's relation to parliament.
 3. Wodehouse :
 The charge of autocracy.
 His relation to the executive and his
 administration.
 4. His lack of sympathy with representative institutions.
 5. Attitude to opponents - intrigue - exasperation.
 Attitude towards responsible government.
 5. His Efficiency as an Administrator.
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CHAPTER 1.

THE GOVERNOR.- SIR PHILIP WODEHOUSE.

Her Majesty's representative in Southern Africa in 1862 held the responsible offices of High Commissioner for South Africa, Commander-in-Chief of the forces, Governor of the Cape of Good Hope and Governor of British Kaffraria. As High Commissioner he was the instrument for carrying out our British policy in South Africa, and controlling the relations between the British colonies and the Boer Republics, and between the colonists and the native frontier tribes. As Commander-in-chief he controlled operations against the frontier tribes. As Governor of the Cape he was responsible for the effective administration of the colony, for guiding the parliament to suitable legislation, for guarding the rights and prerogatives of the crown, and for carrying out any policy that the British Government might direct for the colony.

The Governor's commission entrusted him with the government of the colony and the execution of the laws. He also made laws with the advice and consent of parliament by assenting to bills that had passed both Houses. Besides assenting to bills he could return them with amendments, veto them, or reserve them for Her Majesty's pleasure, all of which powers were real, and were exercised, though not very often. In the judicial sphere he exercised the prerogative of mercy,⁽¹⁾ and made recommendations to the Secretary of State for appointments to the Bench.

Formally, the executive and the legislature were separated. The Governor met the members of parliament twice

(1) The Governor's Commission, instruct's and the Constitut Ordinance. S. 81 & 82.

during each Session on the occasions of the opening and prorogation of parliament. On the former occasion he described the political and financial position, explained his policy and suggested useful legislation, at the prorogation he reviewed the main events of the session, and thanked members for their services. He was permitted under the constitution to introduce bills into either House of Parliament and to send members of his executive to explain them. (2)

The Houses communicated with the Governor by "respectful address" and the Governor acknowledged such communications by formal messages, which were a means of expressing government policy on any particular point, and were equal in importance to a resolution from one of the Houses. ~~Formally~~ it was always the Governor who acted, parliament only advised him and consented to his actions.

The smooth working of such a system required a tactful and patient governor, and though Wodehouse had tact he had little patience, and was very outspoken. At first his candour was appreciated, for Grey had too often endeavoured to make parliament initiate measures it did not fully understand (3) Theal has said that Wodehouse had a naturally autocratic temperament, increased by a previous experience limited to crown colony rule, and was therefore most unsuited to govern a colony with representative institutions. (4) This view is not supported by one of Wodehouse's first actions on arriving at the Cape. He soon discovered that Grey was an independent man who governed the colony as he chose, on his own responsibility. Wodehouse believed that he was bound

(2) The position of the Executive in Parliament is discussed in Chapter 11.

(3) C.A. 26/4/62,

(4) Theal p. 21.

by his instructions and the spirit of the constitution to take the advice of his Executive Council on all matters of importance. He wrote to the Secretary of State :-

" I therefore took an early opportunity of explaining to the Council that it was my intention to bring under their notice and to take advice on all matters to which allusion should be made in the opening speech, or which were likely to occupy the attention of Parliament during the session, and I trusted by this means to arrive at an agreement as to the line which it would be proper for the Government to take on each, and thus to establish a claim to their united support in both Houses. I am happy to say that the Council concurred unanimously in the proposal....." (5).

A similar sentiment expressed in the speech from the throne at the opening of parliament in 1862 was greeted with appreciation by the press as a sign that Sir Philip claimed "to govern without seeking to be despotic " (6)

Wodehouse certainly did his best to increase the power of the Executive at the expense of parliament, but this was due rather to his attempt to create an efficient administration than to a natural autocracy. The unorganised and easy-going government which he found on his arrival in the Colony required drastic administrative reform. During his term of office he dismissed the Postmaster-General, the Resident Magistrate of Cape Town, eight civil commissioners (officers in charge of the local divisions) and numerous minor officials. As many of these officers came from the most influential colonial families, he became unpopular, and acquired a reputation for great severity, though the liberal press at last admitted that his "disciplinary proceedings were strictly impartial and dictated by a strong sense of honour and duty " (7)

When the charming gentlemen who had formed Grey's executive

(5) G.H . 31/9. No.58 of 30/4/62.

(6) C.A. 26/4/62.

(7) C.A. 19/5/70. Article on Wodehouse on his departure.

were gradually replaced by the most competent officials in the civil service, the Governor was accused of recommending those who would be most subservient to his wishes.⁽⁸⁾ It is natural for a governor to choose colleagues of views similar to his own, and no complaint could be brought against the efficiency of his nominees. Nor is this criticism true, for on the resignation in 1865 of the Attorney-General, Porter, with whom he could not agree, Wodehouse tried hard to obtain the junior puisne judge, E. B. Watermeyer, in his place. Watermeyer was one of the Cape Liberals and held views very similar to Porter's; but he was not appointed owing to the Secretary of State's objections to unbenching a judge. ⁽⁹⁾.

The autocracy of Wodehouse "was the outcome rather of circumstances which called for prompt and vigorous measures than of a natural predisposition".⁽¹⁰⁾.

If the criticism of autocracy is too severe on Wodehouse, it is nevertheless true that he considered the colonists inferior beings incapable of looking after their own interests. He never regarded himself as a colonist, or learnt to know or care for the Cape people as Grey had done, and he had no friends outside official circles. ⁽¹¹⁾.

It was his lack of sympathy with his opponents that led to charges of hostility towards representative institutions. "He could not comprehend that people who did not

- (8) C.A. 20/4/65. "He seems quite unable to work with any independent men in his executive....but likes those only who will carry and fetch with the greatest alacrity"
- (9) G.H. 34/14. No 50 of 13/6/65. Wodehouse to Watermeyer" G.H. 31/10. No. 50 of 9/6/65. G.H. 1/12 No.919 of
- (10). de Kiewiet p. 156. 26/8/65
- (11). C,A. 19/5/70. Also de Kiewiet p.156-from the Wodehouse papers. Wodehouse to E. K. Wodehouse.20/6/62, describing M.P's " Some of them are animals of a queer description ".

agree with his conception of what was right were moved by other than factious or unintelligent motives. The colonists he divided into classes - those who agreed with him and those who did not." (12)

When he arrived in the colony he thought the Cape a "very fine and interesting Government", but after he had had experience of the parliament it became a "very troublesome and anxious place". (13) He had prepared to make the administration work smoothly by a reorganisation of the executive, declaring that the defects of the "utterly inefficient administration" was due to the "mode of working the existing constitution". (14) He soon discovered that both the executive and the parliament would have to co-operate in this attempt, and that both the separation and Responsible Government Parties took every opportunity of attacking the government and the constitution - to further their respective ends. Wodehouse abandoned his lofty principles and descended to intrigue.

Hoping to play off the Eastern against the Western group, he made friends with the George Woods, father and son, members of an influential Grahamstown family, and, in return for a promise of support, called the 1864 session of parliament to meet in Grahamstown. (15) At first this move was very successful, taxes were voted, native and judicial questions were settled, and the Governor reported that nearly all he had hoped for had been accomplished, and that this would never have happened in Cape Town. (16)

12) Ibid

13) Ibid p.169 (Wodehouse papers.W.to E.R.W. 22/3/62 & 18/7/64

14) G.H. 31/9 Wodehouse to Buckingham No.58 of 30/4/62

15) R.W.Murray : S.A.Reminiscences

16) G.H. 31/9 Wodehouse to Secretary of State No.69 of 11/8/64.

The evil effects were soon visible in the 1865 session, for the antagonism between the East and West was strengthened, the Westerns lost what confidence they had in the Governor, and the Easterns were peeved at being unable to dictate government policy. (17)

After the Grahamstown session Wodehouse lost faith in the parliament and the constitution. The criticism could now be levelled against him with some truth that "he never asked himself how he could best work with Parliament, and lead it to a true political life, but rather how he could most readily make it subservient to his will." (18) His lack of sympathy with the opinions of those who differed from him led him to think parliament intentionally obstructed government measures. He accused the members of localism and the constituencies of sending their representatives to be continually "on the watch against some imaginary mischief which the government is about to perpetrate." (19) The parliament became to him "an infernal machine", a stumbling block on the road to efficient administration. (20) It frustrated his well-planned schemes,

17) C.O. 6198 Rawson, the Col.Sec. appointed Governor of the Bahamas in 1864, wrote from Nassau to Southey his successor "How truly Sir Philip has realised the fable of nursing an adder in his bosom. When he first took up with Geo.Wood & Co. and warned him and thought to weedle him, and tried the experiment of a G.T.session, I warned him of the result, such as it had turned out, and that his difficulties would arise, not in the first year, but subsequently. He must however have managed badly to have been so completely victimised by them. 7/10/65.

18) C.A. 20/4/65

19) V. & P. of the H. of A. 1869 p.91. Message to the House
2/8/69

20) C.O. 6219 Wodehouse to Southey 22/7/70.

it monopolised his important officials for three or four months in the year, and wore down the patience of the executive. For at the beginning of the session Wodehouse was tactful and conciliatory, and his opening speeches were usually well received, but as the session dragged its slow length his patience would evaporate and he would deliver himself of a biting message which would bring down a storm of abuse on his head.

His action in the annexation of British Kaffraria to the Cape Colony is typical of his attitude to parliament. (21) He thought that the annexation was necessary for the efficient administration of both colonies, he knew that local jealousies would prevent the Cape parliament from passing such an act, and so he accomplished his wish by an over-riding act of the Imperial Parliament. He justified this flagrant breach of constitutional usage by a statement that the end justified the means, and that until the colony desired responsible government, he was forced to do what he thought best on his own responsibility. (22)

Gradually he came to work on his own without expecting the help of parliament, and almost to disregard it. Once during a session he prefaced his plans for the recess with the words "after we are rid of parliament". (23) During the recess he could look back on what he thought to be the antics of the legislators with dry amusement and sarcasm. (24)

21) The constitutional aspect of this question is discussed in Chapter III.

22) C.A. 12/9/65. Closing speech of the 1865 session.

23) C.O. 6205 Wodehouse to Southey 5/7/67

24) G.H. 31/10 No.117 of 11/11/67. In his review of the year 1866 for the Sec.of State, Wodehouse summed up the session of parliament as follows :

"The legislature contented itself with postponing payment of some of its debts in an unobjectionable manner, and trusting to the arrival of better times. Happily it would appear as if their expectations are likely to be realised....."

Wodehouse did not attempt to destroy parliament until the struggle over finance had convinced him that the constitution was unworkable. He thought there was no middle course between retrogression and responsible government, and in his fear of responsible government lies the key to his distrust of representative institutions. Apart from his conviction that the colony was not yet ready for self-government, he feared that the change would imperil the Imperial connection :-

"I have never regarded Responsible Government as applied to a colony, more properly speaking a Dependency, as anything less than an absolute contradiction in terms. How can a ministry responsible to its own constituencies render obedience to a paramount power - the issue between them may be shirked or postponed - but it must come. Responsible Government, I have always held to be applicable to communities fast advancing to fitness for absolute independence.....I regard it as my duty, therefore, so long as my connection with this colony lasts, to do what in me lies to prevent this change." (25)

For Wodehouse remained the faithful servant of Downing Street who never lost sight of his responsibility to the British Parliament. He had served the Empire since his eighteenth year and to him its disruption spelt tragedy. (26) This does not mean that in a clash of interests he sacrificed those of the colony to those of Britain, for in his plans for the settlement of the Transkei; and in his long negotiations over Basutoland, and the withdrawal of the Imperial troops, he struggled long and valiantly with the Colonial Office. He believed that he could best serve the Empire by giving of his utmost to the Cape.

Historians have condemned Wodehouse for his lack of sympathy with parliament, but they have not explained that this was due to his hatred of inefficiency. In 1862 he found a chaotic administration, but on his departure in 1870 the

25) G.H. 31/11 Wodehouse to Cardwell No. 7 of 17/1/70

26) G.H. 31/11 No. 37 of 18/5/68 also C.A. 19/5/70

finances were on a firm footing, and in spite of the depression of the sixties the accounts of 1870 showed the first surplus since 1854. This achievement is due partly to the discovery of diamonds, but mainly to the organising ability and efficiency of Wodehouse as an administrator. The accomplishment is not spectacular and is often overlooked, but it was this firm foundation which made the change to responsible government smooth and easy. He gained his results by dogged perseverance and hard work, and a thorough knowledge of all the details of the administration. (27)

Theal said of Wodehouse,

"He would have made an admirable head of a department to carry out routine duties, but he was incapable of initiating any new measure of magnitude that would be really useful." (28)

This is untrue, for Wodehouse, like Grey, had breadth of vision extending beyond the boundaries of the Cape Colony. For him the constitutional problem was subordinate to the development of British policy towards the Republics. He too envisaged a South Africa federation and a common treatment for a single native problem, but he had no money for carrying out his policy and little support from the Colonial office. His chief contribution to South Africa lies in his wise settlement of Basutoland. (29)

Aloof, firm and critical, he remained unpopular to the last without sympathy or understanding for the colonists he worked so hard to serve. He has been well described by de Kiewiet,

27) Wodehouse personally wrote his despatches to the Secretary of State, and employed one Colonial Office clerk at Government House where Grey had had two and sometimes three. During the retrenchment drive he allowed parliament to dispense with his aide-de-camp and the clerk to the Executive Council, both on his office staff at Government House - (A - 3 of '66) de Kiewiet, p.274.

28) Theal, p. 21

29) C.H.B.E. p. 428, de Kiewiet, pp. 268-269.

"Wodehouse reminds one of a chess player with his pieces before him, interested and shrewdly competent in the problem they represent, but unconscious that the pieces had wishes and ambitions of their own." (30)

30) *Ibid*, p. 157.

CHAPTER II

THE EXECUTIVE COUNCIL, AND ITS RELATION TO PARLIAMENT

1. The position and functions of the Council
Judicial - legislative - executive - advisory.
 2. Collective responsibility.
 3. The relation of the Executive to Parliament :-
Its position in the Assembly - an irresponsible cabinet
Its position in the Legislative Council
 4. The members.
Rawson - Porter - Southey - Griffith - Davidson -
Cole.
-

CHAPTER II - THE EXECUTIVE COUNCIL

The Executive Council was an important body constituted in 1825 "to advise and assist in the Administration of the Government", or to act as a check on the Governor in the exercise of his duties.⁽¹⁾ In the 1860's the Council, under the presidency of the Governor, consisted of the Senior Officer commanding the land forces, the Colonial Secretary, the Colonial Treasurer, the Attorney-General, the Auditor-General and the Principal Officer of Customs, "or people lawfully acting in their (several) capacities". The Senior Officer was included because he administered the government in the absence of the Governor; the next four officers were the heads of the most important government departments and had seats in parliament, and the Collector of Customs controlled the department which collected the greater part of the revenue.

Their relation to the Governor was laid down on the Royal Instructions :-

"We do hereby direct and require that in the execution of the powers and authorities committed to you by our said commission, you do in all cases consult with the said Executive Council, excepting only when the matters to be decided shall be too unimportant to require their advice, or too urgent to admit of such advice being given by the time within which it may be necessary for you to act in respect of any such matters; provided that in all such cases you do subsequently and at the earliest practical period, communicate to the said Executive Council the measures which you may so have adopted, with the reasons thereof." (2)

- 1) Eybers: p.24. Proclamation of Lord C.Somerset 2/5/25
 2) The Governor's instructions. S.4.

As already shown, Wodehouse took the duty of consulting the Council seriously, with the results that its functions were many and diverse. (3)

In the judicial sphere the Council reviewed all cases where applications were made for commutation of sentence or free pardons; and made decisions on a written report of the evidence together with a report from the judge who tried the case. (4)

In the legislative sphere the Council approved draft proclamations and bills for introduction into parliament, and received bills from public bodies such as the Chamber of Commerce, which, if accepted, were introduced by the government. Under authority of Act No.17 of 1860 it issued letters patent to inventors. Lastly it had the important duty of acting as a co-ordinating body for approving municipal regulations, to ensure uniformity and to keep the municipalities within their legal rights.

The Council's most important duties lay in the Executive sphere. The Governor made appointments or suspended officers from the public service on the advice of the Council. (5) It approved the granting of pensions or sums from the special fund set up in 1861 for the relief of civil servants, and it discussed the creation of new offices, even those of washerwomen to the Robben Island Infirmary. In the same way as

3) The following information, unless otherwise stated, is obtained from a study of the minutes of the Executive Council.

4) Instructions S.11

5) Ibid S.13

expenditure

the modern cabinet it was responsible for the policy and ~~ex~~ of the government departments, but it extended its superintendence to the government social institutions, such as hospitals, schools and lunatic asylums. The Council carried out laws made by parliament, setting up what machinery was required to bring the acts into effect. So under authority of acts of parliament it authorised sale of crown land, called for tenders for government contracts, supervised railways and public works and negotiated loans.

In carrying out their duty of giving advice, the members of the Executive discussed the general policy of the government to be laid before parliament. During the recess they decided on the measures to be introduced into parliament at the next session, and drew up the broad outline of each bill. The bills were then drafted by the Attorney General and submitted to the Council for approval. The Governor's opening and closing speeches and his important messages to the Houses were also laid before the Council, and especially at the beginning of Wodehouse's term of office, the order papers of the Houses were brought up for discussion, the progress of government bills reported, and the policy to be followed on members' questions and motions was discussed.

If the Governor acted contrary to the advice of the Council he had to report the matter to the Secretary of State, but there was a way of avoiding disagreements which was practised by Wodehouse on his decision to hold the 1864 parliamentary session in Grahamstown. He submitted his policy to the Council at the last moment, and stated that as he had sprung it on them at such short notice, he would not expect their concurrence, and would therefore take full responsibility for his action. (6)

6) Ibid S.5. also Ex.Co. 6. No.35 of 27/7/63. S.6.

In the exercise of all these functions the members of the Executive assisted the Governor as a legally constituted body, holding formal meetings and keeping minutes of its decisions, copies of which were transmitted twice a year to the Secretary of State. But the Governor might, and did consult individual members of the Executive informally. After 1864, the Colonial Secretary especially was in his confidence. The Governor expressed his personal views in his correspondence with the Secretary of State and was under no obligation to consult the Executive in this matter, but if he was away from Cape Town when the mail arrived, his despatch bag was opened by the Colonial Secretary, and the general despatches studied before they were forwarded to the Governor. (7)

In his capacity of High Commissioner, the Governor was not bound, under his commission, to consult the Executive Council, which was not mentioned; but for all practical purposes the members of the Executive advised him on all questions of policy both intra- and extra-colonial. (8)

Wodehouse, in making the Council so important a part of the administration, had a definite object in view. He wanted his executive to be collectively responsible for government policy, so that he would have a claim to their united support in parliament. Careful consultation was necessary if this result was to be achieved, for the members of the Executive were appointed by the Secretary of State, and might be brought together from all corners of the globe "without reference to the necessity of time ~~or~~ place", and possibly having no idea in common, no bond of union, and no adhesion". (9)

7) Southey Correspondence

8) Ibid - also Wilmot, Southey pp 149....Letters from Wodehouse to Southey.

9) C.A. 26/5/60 (22/5/60) Speech by ^{Porter}~~Port~~ in support of R.G.

The Governor certainly could suggest nominees to the Secretary of State, but his advice was not necessarily followed. (10)
 Wodehouse described the results of this to the Secretary of State :-

"....for some time there has been a considerable and a growing uncertainty as to the position held by the Governor of the Colony and the members of the Executive Council in relation to each other, and likewise in relation to their mutual connection with the legislative bodies. There does not appear to have been any common or united course of action, but the Governor and the members of the Government holding seats in the two Houses seem to have acted with very little concert, and each has given expression on occasions of importance to his own individual views....." (11)

By perseverance, full consultations, and a grant of sick leave to the Attorney-General who openly advocated responsible ^{parliamentary} government, Wodehouse succeeded in turning his spokesmen into mouth-pieces of the government. (12)

A more difficult task presented itself in the control of the Lieutenant-Governor, the Commander of the forces, who was stationed at Grahamstown, permanently cut off from the rest of the Executive, "and exposed to the constant solicitations and arguments of those Eastern politicians who regard(ed) the government in the West with great suspicion". (13) When Sir P. Douglas received his commission in 1863, Wodehouse overcame this difficulty by arranging privately that the Lieutenant - Governor was to have no civil functions, an arrangement which was easily made, because his office had been broken up in 1862,

10) Much dissatisfaction was caused in 1859, when Sir G. Grey asked that R. Southey, an experienced public servant, might be promoted to the vacant office of Auditor-General, and the Earl of Derby appointed his nephew, E.M. Cole, who was farming in the colony.

11) G.H. 31/9, No. 58 of 30/4/62.

12) C.A. 12/3/63 "....we are reminded everywhere that the executive is no more divided than before, each member thereof operating according to his own sweet will....the Governor has his team well in hand..."

13) G.H. 31/10. Wodehouse to Cardwell, No.124 of 21/11/65.

and all Eastern business transacted directly by the Colonial Office in Cape Town. During a frontier scare in 1865 some Eastern members of parliament found out that on leaning on the Lieutenant-Governor they were leaning on a broken reed", and caused his salary of £1,000 a year to be abolished on the close of Douglas' term of office. (14) For the Governor the more irritating aspect of the Lieutenant-Governor's independence was his direct correspondence with the war office, in which he often expressed views on frontier problems in conflict with Wodehouse's despatches. For this he had no remedy except private letters to the Secretary of State. In spite of these difficulties the Lieutenant-Governor remained a member of the Executive Council, and attended its meetings when he was in Cape Town. (15)

One of the most important functions of the Council was to provide a link between the Governor and parliament, and in his efforts to achieve solidarity in his executive, Wodehouse was trying to strengthen it and establish its ascendancy over parliament. He complained that much of what fell "strictly within the province of the Executive Government (had) been suffered to fall under the control of the Parliament, exercised mainly through committees and commissions", and his administrative instincts rebelled because "it certainly (could not) be said that consistency of action or economy in the application of the resources of the colony (had) resulted from these arrangements". (16)

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- 14) C.A. 16/8/65 (15/6/65) Speech by Godlonton in the Legislative Council.
- 15) C.O. 6197. Wodehouse to Southey 22/7/65 :-
 "And I shall have to tell the Secretary of State that these alarms of the Generals are to say the least exceedingly premature - as usual he is already getting frightened about the expense of what he has done, and has started this fine idea of making Moshesh pay all the expenses of the Military movements."
- 16) G.H. 31/9. No.58 of 30/4/62. Wodehouse to Sec. of State.

In the first sessions of parliament the government officers attended to answer questions, confining their remarks chiefly to explanations of subjects concerned with the working of the Executive, and the majority of the bills were introduced by private members. (17) The position of the Executive in parliament was the more insecure because there was no effective leadership; for Rawson, the Colonial Secretary though senior in office was outshone in every particular by Porter, the Attorney-General. (18) This position did not last long, and already in 1862 the executive was expected to lead the House of Assembly. Wodehouse went on a tour of the Eastern frontier as soon as he had opened his first parliament, and the Colonial Secretary stated that he did not wish to proceed with the budget and some other important measures until His Excellency's return. Members of the House protested against being summoned to Cape Town and given no work to do, and when the Colonial Secretary pointed out that the Governor had laid excellent suggestions before them in the opening speech, Solomon, the member for Cape Town, indignantly repudiated the idea that the House should legislate on suggestions. Bills were required. (19) The field was therefore ready for the strengthening of the Executive.

It was possible for the government officers to lead the House of Assembly, for there the constitution was widely interpreted, and they were permitted to move or second motions, to sit on select committees, and were given all

17) R.W.Murray: Pen & Ink Sketches in Parl. p.3

18) C.A. 26/5/60 (22/5/60) Speech by Rawson in favour of R.G.

19) C.A. 13/5/62.

the privileges of elective members with the single exception, under the constitution, of voting. As the sixties wore on fewer and fewer bills were introduced by private members, and the executive, from occupying an advisory position, rapidly became a cabinet. This change was facilitated after 1865 by the resignation of Porter and Rawson, and Southey, the new Colonial Secretary took his place, both by office and ability, as leader of the Executive. The majority of the bills were introduced by the Governor, and Southey arranged when they were to be sent down to the Assembly, and when they appeared he chose days for their second reading debates, and steered them through the House with an eye to their arrival in the Legislative Council on a day when he would be free to deal with them there. He filled up the order paper with government resolutions and left the honourable members less time for their own motions and bills. The original duty of giving information still had to be performed in both Houses, and the same officer was often in demand in both of them at the same time. One result of this increased activity was the attempt to increase the number of officers with seats in parliament, but such proposals were never adopted or visibly encouraged by the Executive. (20) On Wodehouse's departure the Argus expressed the view that :-

"Sir Philip's idea has always been that the grave responsibility resting on the Executive forbade any surrender of its privileges. Executive authority has during the last two years been brought up to concert pitch, probably to show

20) C.A. 4/10/66 (3/10/66). 3/11/66 (2/11/66)

Also C.O. 5856 E. p.47. 26/7/67. Southey described his parliamentary duties: "I hope that the parliamentary session is near its close, we have had hard work of it sometimes as you may conceive beginning with select committees at $\frac{1}{2}$ past 10 a.m., regular House at 2 p.m., and often keeping open till 11 or 12 at night - then having to look after two Houses and having to do one's ordinary duties besides, leaves little time for rest....."

the parliament that they must either surrender something or ask for increased powers. " (21)

During the early years of parliamentary government when the party divisions were on provincial lines, the Executive had been careful to maintain an impartial position. But Wodehouse expressed his views so decidedly that after 1865 the main party divisions became government and anti-government, and the Executive found itself at the head of a minority group in the House. (22) Some of the members thought this irresponsible cabinet dangerous, and complained that a minority government was against all the traditions of British parliamentary practice. But the opposition, too, was irresponsible, not being faced with the duty of forming a ministry, and so took every opportunity of obstructing the government without offering constructive proposals, hoping in this way to hasten the coming of responsible government. The Colonial Secretary complained, with exaggeration, that "Every member of parliament looks on the Executive, and me in particular, as his natural enemy, and the enemy of the country." (23) The executive therefore led the assembly in an atmosphere of distrust and hostility that must at times have been very discouraging.

In the Legislative Council the position was different, for in that aristocratic atmosphere the government officers were treated merely as sources of information and were not considered full members of the House. The provision of the constitution that they were to have seats and take part in

21) C.A. 19/5/70

22) Southey's position as leader of the Conservative party is described in Chapter IV.

23) C.O. 21. 6201 Southey to H.Hudson (C.C. of Somerset East) 17/8/66.

debates was narrowly interpreted and they were not permitted to move and second motions. They therefore had no share in arranging the business of the Council, except by making private arrangements with members who sometimes fell in with their wishes. (24) The honourable Councillors, including among their number some of the most influential men in the colony, were determined to keep the members of the Executive in their places. In the words of one Councillor they were "upon their guard with regard to these government officers, to see that they did not presume to dictate to the Council, but only to speak in debate, in the same manner as other members". (25) Porter complained that whenever they had valuable suggestions to make they had to go to the Council with the futile "legislative farce of who'll-move-my-motion", and that he was sick of it. "To that may be attributed the fact that whenever I am left to my own spontaneous dictates I am found in my place in this Honourable House (i.e. the Assembly), and nothing but a stern ^{relentless sense} ~~relentlessness~~ of duty brings me within the confines of the "other place". (26) Certainly the members of the Executive attended the Council as little as possible, and even neglected to be in their places to answer questions. In 1869 a certain question of which notice had duly been given was postponed four times and finally withdrawn as on every occasion there had been no member of the Executive present to answer it. The Governor was requested to make some arrangement for the attendance of an official when notice of question had been given, but the complaint was very unsympathetically received. (27)

24) C.O. 6195. de Roubaix (M.L.C.) to Southey 1865

25) C.A. 24/5/62. Debate in Leg. Council

26) C.A. 26/5/60 (22/5/60) Speech by Porter in H. of A.
advocating R.G.

27) C.A. 30/10/69 (29/10/69), 16/10/69 (15/10/69)

The Council was more conservative than the Assembly, and therefore, in the latter sixties more inclined to support the government. In the Assembly where the Executive Officers were personally responsible for the conduct of public business, and had no majority to pass their measures, a great deal depended upon their personal influence and powers of persuasion. Rawson W. Rawson, Colonial Secretary from 1854 to 1864 was a charming but not very efficient gentleman. He was very courteous to all and sundry in parliament, popular with the Western Liberals and capable of performing his duties adequately. He was completely outshone by his colleague the Attorney-General. "The Hon. William Porter (was) physically, intellectually and professionally an orator. He (had) the physique, the intellect and the gift of language which are combined in but few men."²⁸⁾ He had framed the constitution ordinance, was a great believer in parliamentary government, and spent much of his time in the Assembly. When, tall and handsome, he rose to his feet and delivered himself in his ringing voice of one of those eloquent speeches which still read well, there were few members of his audience who could resist his spell. Murray facetiously wrote that an old joke convulsed the House, but a new one was worth £25,000 to the government in taxes. When, in 1865, he resigned on reaching pensionable age because he could not agree with Wodehouse on the issue of responsible government, the House of Assembly asked for and passed a bill granting him a pension equal to his full salary. ⁽²⁹⁾ His resignation weakened the government in

28) R.W. Murray: Pen & Ink Sketches p.11

29) C.A. 29/8/65 (28/8/65)

the Assembly, but in 1869 he was returned to parliament as senior member for Cape Town, and used his independent position to further the cause of responsible government and to tone down the attacks made on the government by Molteno, the obstreperous member for Beaufort West.

Richard Southey, who succeeded Rawson as Colonial Secretary was a very different man from Porter. He came to South Africa with the 1820 settlers at the age of twelve, and played an important part in the Kaffir War of 1835, when he formed a firm friendship with Sir Harry Smith, who, on coming to the Cape as Governor, persuaded Southey to give up farming in the Graaff Reinet district and become his private secretary. He then successively occupied the positions of Civil Commissioner of Swellendam and Secretary to the Lieutenant-Governor, the head of the civil establishment in the Eastern Province. Between 1853 and 1862 he was an unofficial stop-gap on the Executive Council, acting twice as Colonial Secretary and once as Auditor-General, and on the death of the Treasurer-General in 1862 he held that office until his promotion to the Secretaryship in 1864. In this varied career he had acquired a thorough knowledge of the country and many friends in the various districts. Many of the members of parliament were friends or relations of his, so that he had a personal following in the House.

He was no orator, but his speeches were clearly and concisely arranged, and his arguments were never based on high sounding principles but on solid facts, which his excellent knowledge of the country and the public service made it difficult to dispute. It was he, when acting as Auditor in 1859, who first brought the financial position

before parliament, but he received no support from the rest of the Executive until the arrival of Wodehouse. He had an excellent temper, remaining, as Rawson expressed it, "imperturbable in the midst of the hubbub, as cool as a watermelon". (30) His calm diminished as the 'sixties proceeded, and sometimes he became cantankerous, but as his temper decreased his debating power increased, and by the early 'seventies he had become a fluent and impressive speaker. (31) In Southey Wodehouse had chosen an excellent Colonial Secretary; he was no statesman, as later events were to show, but he was efficient both within the House and outside it. Unfortunately on him fell the entire burden of government work in the House, for the rest of the Executive were of little help.

W.D.Griffith, the Attorney-General, was a competent lawyer, but his violent temper led to tempestuous scenes in parliament. Porter had obligingly acted as "pen-man to the House", and framed amendments and even redrafted bills in accordance with the wishes of the Assembly. Griffith, on the other hand, declared that the House could frame its own amendments, for as legal advisor to the Governor he considered that his duty was over when he had framed the original bill. This attitude made him very unpopular in parliament, so, though he often attended debates to help Southey, his presence was sometimes more a hindrance than a help.

30) Wilmot: Southey p.129 (Rawson to Southey 7/2/65)

31) I do not agree with de Kieeiét that Southey had little debating power. Not even Porter could defend the Governor from attacks in the House. see p.157.

The Treasurer and Auditor seldom appeared in parliament, for neither were of any use. The Treasurer, Davidson, chosen especially for his supposed parliamentary ability, was industrious but inadequate, and Cole, the Auditor, appointed by Earl Derby, was capable of appearing in parliament in a befuddled state and making a laughing stock of the government. (32)

On the departure of Wodehouse the Argus attributed some of his unpopularity to the disadvantage under which he was placed by his representatives in parliament. With the exception of Southey, they proved unequal to the important position they were called upon to fill in parliament, and their attitude increased the suspicion existing between Executive and Legislature. (33)

Under Wodehouse, therefore, the Executive Council became an exceedingly powerful and compact body, sharing with the Governor the responsibility for the administration of the Colony, but the majority of its members were unsuccessful parliamentarians, and their unpopularity hastened the coming of responsible government.

32) de Kiewiet. p.157 from Wodehouse Papers. W. to E.K. W.
5/6/65.

33) C.A. 19/5/70. Taylor p.170.

CHAPTER III

IMPERIAL CONTROL AND THE CAPE PARLIAMENT

1. Distinction between control over internal and external affairs.
2. Internal Control:
 - (a) Legislative control
Reservation - powers of Cape parliament - disallowance and suggestion. Overriding legislation - the annexation of British Kaffraria.
 - (b) Executive Control.
3. External Control:
The office of High Commissioner - Responsibility for the salary.

C H A P T E R 111.IMPERIAL CONTROL AND THE CAPE PARLIAMENT.

In estimating the degree of control exercised by the British Government in South Africa, a distinction must be made between the internal affairs of the Cape Colony, and of questions of extra-colonial importance. The distinction was recognised by the British Government, whose representative in South Africa was given two commissions, one as High Commissioner where he was the instrument for carrying out British policy in South Africa, and one as Governor of the Cape Colony.

The Crown-in-Parliament retained the ultimate legislative authority over the Cape Colony, but after 1865 could exercise this authority only by passing an Act extending specifically to the Colony.⁽¹⁾ The British Government was "held to have abandoned its legislative authority except where it is expressly reserved", so the Cape Parliament had power to amend ordinances and Orders-in-Council passed previous to the granting of the constitution, providing the prerogative rights of the crown were not infringed.⁽²⁾ This meant that the Cape Parliament was free to legislate for the internal affairs of the colony, but could not make laws altering the status of the Executive.

There remained to the British Government the legislative authority " expressly reserved". The Governor assented to bills in the Queen's name, but was instructed

(1). Keith. R.G. in the Dominions. p. 409.

(2). C.H.B.E. p. 378.

to reserve the following classes of Bills for the Royal assent :-

Bills relating to divorce.
 Bills making a gratuity to the Governor.
 Bills establishing a non-gold or silver currency as legal tender.
 Bills imposing differential customs duties.
 Bills ~~in~~ consistent with any treaty of the United Kingdom.
 Bills relating to the discipline of the forces.
 " Any Bill of an extraordinary nature and importance" whereby the royal prerogative, "or the rights and property of our subjects not residing in the Colony and its dependencies, may be prejudiced."
 Any Bill containing provisions previously disallowed or refused. (3).

From this list it is evident that the majority of the bills to be reserved did not deal with purely internal matters, but affected also the interests of people living beyond the borders of the colony. This was in keeping with the theory of territoriality, that a colonial parliament had power to legislate only for the inhabitants of the colony. Internally, the Cape Parliament and the Governor could make most laws independently of Downing Street. The usual machinery for legislation affecting more than one of the British Colonies was an act of the British Parliament, but at the Cape it was convenient, if extra-territorial matters did not go beyond South Africa, to use this procedure of a local act reserved for the Royal Assent, rather than to worry the British Parliament with specialised acts affecting only small portions of the Empire. Originally this procedure was to have been used for the annexation of ~~the~~ British Kaffraria, and it was mooted for the annexation of the Ichaboe Islands.

By the reservation of certain classes of bills,

(3) Governor's Instructions. S9.

technically beyond the competence of the colonial legislature; it was given power to legislate on any matter whatever. There was no class of bills expressly forbidden to the Cape Parliament. In 1864, in the interesting case of *Deane and Johnson v. Field*, the Cape Supreme Court defined some of the powers of parliament. In the speech from the throne the Governor advocated higher customs duties, and an immediate scramble began on the part of the merchants, to take their goods out of bond. The Governor attempted to prevent this by a resolution from both Houses promising to indemnify the Governor if he instructed the customs officers to demand the increased rates immediately - before the new tariff was passed. W.S. Field, the Collector of Customs was required by telegram (from Grahamstown) to require all merchants, before receiving their goods, to enter into a bond to pay such higher rates as might be determined during the session. The Cape Town merchants refused to do this, and the firm of Deane and Johnson obtained a writ on the Collector, who on May 3rd. was called upon by the Supreme Court to show cause for his refusal to allow the goods to pass. He pleaded instructions from the Governor. The court held that the Governor had no power to demand a bond on a resolution of Parliament, and ordered the Collector to deliver up the goods.

Meanwhile, at Grahamstown, a bill indemnifying the Governor and forbidding the judges of the Supreme Court to hear any cases based on the resolution, was introduced into parliament, and passed both Houses on May 3rd., receiving the Royal Assent on May 4th. On the same day the Collector of Customs, who acting under instructions had still refused to allow the goods to pass, received a second notice from the

Supreme Court. In reply to his telegram he heard, on May 5th, of the passing of the Act of Indemnity, and on May 6th when he appear^{ed}/before the Supreme Court for a second time, the act was publised in Cape Town in a gazette extraordinary. The Court was faced with an act prohibiting it to hear the case. The counsel for Deane and Johnson tried to prove that ex-post-facto legislation was illegal in the British Colonies, but the court refused to accept this argument, saying that there was nothing in the constitution to prohibit such acts. An attempt to take the case before the Privy Council was abandoned.⁽⁴⁾

Although the Cape Parliament could legislate on any topic, The British Government could prohibit the execution of any act through the prerogative of disallowance. Copies of all acts of colonial parliaments were sent, with explanations by the Governors to the Colonial Office, where they were carefully studied, and if thought objectionable, could be disallowed by the Queen within two years of their passing both Houses. This prerogative was one of the first to become obsolete, for its use would have implied a public censure on the Governor, and it was not used during Wodehouse's term of office. The acts were, however, carefully read at the Colonial office, and if portions of them seemed objectionable, amendments were suggested. In 1867 an Act was passed empowering the government to borrow money from the custodian's fund. The Secretary of State thought that the guarantee of repayment was not sufficiently clearly stated, and in spite of the Governor's explanations and objections to such a course, required that the Act be amended.

(4) C.A. 3/5/64. 5/5/64.(3/5/64) Report of the first hearing in Court,
C.A. (6/5/64) 7/5/64. Report of second hearing in Court.

So in 1868 a further Act was passed " to remove doubts as to the intent of the Act No 19 of 1867". (5)

On another occasion the Secretary of State was not satisfied of the necessity of an Act for the further punishing of cattle stealers, which he thought too strict. He did not advise disallowance, but instructed Wodehouse to watch carefully for any unfairness in the working of the act. (6) The Colonial Office exercised its greatest influence on the internal legislation of the colony through this power of revision under the threat of disallowance.

Although under the system of representative government the colony had a large measure of legislative independence, the overriding power of the British Parliament remained, and could be used if the occasion arose. In 1865 this power was used, but at the request of the Governor of the Cape , and therefore could not be called a direct interference by the Colonial Office. When the British Government no longer desired the responsibility for the administration of British Kaffraria, and withdrew the Imperial grant, Wodehouse felt that the only solution was annexation to the Cape Colony. In 1862 he introduced into parliament a bill for the incorporation of British Kaffraria in the Cape Colony, but it was decisively rejected owing to the Western fear that the East would be strengthened, and the Eastern fear that the troops would be withdrawn. In Kaffraria meetings were held to protest against the annexation, and petitions

(5) G.H. 31/10. Wodehouse to Sec: of State.No.16 of 9/3/68. No 96 of 9/10/68.
G.H. 1/15. Sec: of State to Wodehouse.No.89 of 7/1/68
No. 132 of 9/5/68.

(6) G.H. 1/15. No. 96 of 16/1/68.

were sent to the Governor. Wodehouse was faced with a measure which he considered absolutely necessary for the efficient administration of both colonies having no hope of acceptance in either. In 1864 parliament passed a resolution asking for the taking of a census with a view to revising the electoral divisions, and the Governor realised that if this were done before the incorporation of British Kaffraria the latter would never be accomplished. Wodehouse, typically sacrificing the constitutional to the administrative issue, wrote to the Secretary of State that all difficulties might be overcome if the annexation was effected by an Act of the British Parliament and gave details of what that Act should contain.⁽⁷⁾

Accordingly, when the Cape Parliament met in 1865, it was faced with a British Act by which it was empowered to pass an Act for the Incorporation of Kaffraria, adding four members to the House of Assembly, and appropriating certain sums from the revenue of the combined colony. If no such Act was passed by the Cape Parliament, the British Act was to be promulgated by proclamation of the Governor, after he had assented to it as Governor of British Kaffraria.

Under the leadership of Solomon, the champion of constitutional rights, the House of Assembly, with only one dissentient vote, passed eight resolutions condemning the action of the British Parliament and censuring the Governor for his lack of sympathy with representative institutions. In an able speech Solomon attacked Wodehouse for his "subserviency and submission to Downing Street", and his willingness to sacrifice the interests of the Cape

(7) G.H. 31/9. No.50 of 13/7/64, & confidential despatch of 14/12/64.

Colony to the British Government's desire to be relieved of the responsibility for a colony set up to serve Imperial purposes. He objected to being governed by Downing Street and said it was a violation of the constitution, :

" without our consent, to burden us with the debts and obligations of the Home Government, with provisions for officers whose necessity we did not see at all, to burden us with the provision for a colony which did not even consent to the annexation, and without our consent being asked either; and to add four members to our House of Assembly without our consent being required. It is very true that we are allowed to do it if we will, but it is equally true that, according to the provisions of this Act, if His Excellency think proper, he can proclaim it tomorrow, and these things will be done without the consent or concurrence of this Colony being asked..... ."

It was an old established principle, he said, that taxation without representation was tyranny. Yet here the British Government was :

" burdening us with certain debts, and taking certain revenue, and appropriating it to certain services without the consent of the Parliament of the Cape of Good Hope. I do not myself know that there has been any greater violation of constitutional right. I am quite ready to admit the paramount authority of the Imperial Parliament. I should be sorry to see the Imperial Parliament deprived of it. It must exist somewhere, and I do not know that it could exist anywhere that would be better than the Imperial Parliament, but the Imperial Parliament must exercise it with very great caution indeed; and when we think it is exercised arbitrarily, despotically, and in a manner to override our constitutional rights, we should be unfaithful to our duties if we did not resist it in a constitutional manner, as we are now prepared to do." (8)

The resentment of this speech is typical of the feelings aroused at the Cape by the Governor's action. Solomon's is, of course, an overstatement of the case. The British Government had not incurred the debts of Kaffraria, and as the Colonial Secretary pointed out, it was handing over

to the Cape sufficient crown land (occupied by natives) to pay the debt several times over. Again if it did appropriate certain sums from the colonial revenue for salaries for the High Commissioner and the native chiefs and compensation to dismissed officers, it also handed over the revenues of the colony which would be sufficient to cover these. Nothing, however was said of the expensive public works started in Kaffraria by Sir G. Grey, and subsidised by the Imperial grant which had been withdrawn in 1864. It was undoubtedly unconstitutional to add four members to the House of Assembly, and to force the Cape Parliament, by the threat of overriding legislation, to pass an Act taking up a responsibility that the British Government wished to lay down.

This is the only occasion on which the British Government attempted overriding legislation, and while it shows the powers retained by the Imperial Parliament, it is a better illustration of Wodehouse's character than of Downing Street policy. Even the Colonial Secretary privately admitted that " it was a little out of the ordinary course ". (9).

The Colonial Office had a greater control over Cape affairs in the executive sphere. It appointed the Governor and corresponded regularly with him, giving instructions on important matters. Also an informal correspondence was conducted between the Colonial Secretary and Sir George Barrow, head of the South African department of the Colonial Office. In spite of this it is extraordinary how little the Secretary of State interfered with the internal affairs of the Cape

(9) C.O. 5856 C. Southey to P.G Wulyan (Col. Agent in
(London. 14/6/65)

Colony. During the period of representative government the Cape was blessed with two Governors of strong character, who were not afraid to state their own convictions, and there was never "Downing Street Government" at the Cape in the sense that it existed in Canada under representative government, when governors were afraid to take responsibility for their actions. In nearly all matters affecting the administration of the Cape Colony the advice of the Governor was followed, the one big exception to this being the question of the form of government at the Cape. Both Wodehouse's early federation scheme, and his later "Jamaica constitution" were rejected, and later the British Government determined to introduce responsible government against his advice.

It is significant that when Solomon attacked Wodehouse for his submission to Downing Street, the examples given of his subserviency, his abandonment of the federation scheme and the Transkei, and his proposal for creating a coloured regiment of irregular horse, were all concerned with the settlement of the East, and, excepting the first, fell more within the province of the High Commissioner than the Governor of the Cape Colony. (10) It was in settling the native tribes around the colony, in the Transkei and Basutoland, in relations with the Free State, and in the regulation of the Imperial Troops in S. Africa that the Colonial office led, and Wodehouse, often unwillingly, followed. In nearly every case in which the Secretary of State rejected a proposal of Wodehouse, it was because he was unable to take the pecuniary or military responsibility for carrying it out.

(10). C.A. 23/5/65 (22/5/65)

The Governor, if he did not propose to spend any imperial money, was usually given a free hand, and was even allowed to convert all the Basutos into British subjects " on the understanding that no pecuniary or military aid is to be sought from **this country.**" (11).

The position of the High Commissioner was a strange one, for dealing with extra-territorial matters he was largely controlled by the Cape Parliament. The Legislative Council, in particular debated on native policy and federation, but had no means of enforcing its views on the Governor unless he asked for money. Wodehouse was, in this respect, less fortunate than Grey, for after the Imperial grants for Kaffraria came to an end, and especially after the annexation, he had no funds under his control as High Commissioner. (12) If he wanted to set up a British agent or magistrate with an extra-colonial tribe, he either had to collect his salary by hut tax, which was difficult, or obtain a grant from the Cape Parliament, which was worse. He could keep order among the tribes by employing Imperial Troops, but after their withdrawal began in 1868, the only force at his command was the excellent Frontier Mounted Police, which was financed, and therefore controlled by the Cape Parliament. (13)

As parliament could not exercise a definite control over the High Commissioner, it objected to paying his salary. The office had been unpaid until Sir George Grey represented that the responsibilities attached were

(11) G.H. 1/15. No. 149 of 9/7/68.

(12) G.H. 31/10. 1868.

(13) G.H. 31/10 No. 64 of 16/7/67

onerous, and a salary of £1,000 per annum was paid from the general revenue of British Kaffraria. On the annexation this salary was placed on the fixed establishment by means of a schedule to the Imperial Act. This caused much dissatisfaction, and Solomon led the objection to the payment of what he considered an Imperial officer, "and not a very useful one". In carrying a series of resolutions that future Governors of the colony should receive no salary as High Commissioner, he said that the British Government should pay the salary if they considered it necessary. (14) As no notice was taken of these resolutions, he introduced a bill in 1866, for abolishing the salary, and it passed both Houses, was reserved, but failed to receive the royal assent. (15) From 1867 onwards, the House of Assembly continually and unsuccessfully attempted to remove this item from the estimates, and when, in 1870, the Governor finally consented to entertain the proposal, the bill hurriedly introduced into parliament failed to pass the Council.

Wodehouse said that the colonists chose to make this distinction of an "Imperial officer", merely to escape responsibility; and that any distinction between the acts of the High Commissioner and the Governor "must be altogether imaginary", for in both capacities he worked for the good of S. Africa. He thought there was no need for separate commissions, for the High Commissioner's duties could be covered by the royal instructions, and he considered the distinction nothing but an excuse to reduce the Governor's salary. The Secretary of State agreed with the latter view, and advised the Queen to withhold assent from the Bill. (16).

(14) C.A. 30/9/65. (28/9/65)

(15) C.A. 15/9/66. (14/9/66)

(16) G.H. 31/10. No.17 of 7/4/67. G.H.1/14 No.30 of 10/7/67.

The commission required its holder :-

" to take all such measures, and to do all such matters and things as can and may lawfully and discreetly be done by you, for preventing the occurrence of any irruption into one said colony of the tribes inhabiting the territories aforesaid, and for maintaining our said colony in peace and safety, and for promoting as far as may be possible, the good order, civilisation and moral and religious instruction of the tribes aforesaid, and with that view, for placing them under some settled form of government. "

These are wide powers to be conveyed by the royal instructions, and it is doubtful if Wodehouse would have made this claim in 1870, when he had used these powers to proclaim Basutoland British territory, and to keep it quite apart from the Cape Colony, under the "undefined but convenient" jurisdiction of the High Commissioner. Indeed he was forced to admit that a commission was necessary, for on his departure he discovered that there was no provision in his commission for his absence from the colony, and consequently, no legal power for General Hay to act as High Commissioner and control Basutoland, and the diamond diggings. He therefore asked that a commission might be sent to Hay as soon as possible, and until this was done, Southey controlled Basutoland affairs in his capacity as ex-confidante of Wodehouse, and friend of Bowker, the Magistrate. (17) After the advent of responsible government at the Cape, the Governor and the Secretary of State clung with obstinacy to the office of High Commissioner, claiming that it was only in his capacity of Governor that Her Majesty's representative was subject to the advice of His Cape ministers. This was one of the chief arguments to legalise the dismissal of the Molteno ministry in 1877. (18)

(17) G.H. 31/11 No.46 of 5/5/70.
Also Southey correspondence.

(18) V & P of Parliament (A-4 of '78) p.12. Sec: of State to Frere. 21/3/78.

There is therefore some justice in the claim of the Cape politicians that the High Commissioner's salary should be paid by the British Government, for his functions were different from those of the governor of the Cape, and he was controlled more by the Colonial office than the Cape Parliament. On the other hand he was not an imperial officer in the diplomatic sense of the High Commissioner of to-day, for it was his duty to serve the best interests of the native tribes and of South Africa as a whole, as well as of the British Government. It was through this anomalous office that the British Government exercised its greatest control over the affairs of South Africa.

The South Africans have always tried to be as independent as possible of British control. Perhaps the degree of their success during the period of representative government can best be summed up by quoting a resolution which was proposed in the Legislative Council, but withdrawn on the outcry against its so-called disloyalty. :-

" That it would in a high degree be conducive to the happiness and prosperity of this colony, and moreover, enable the Imperial Government considerably to reduce the naval and military force now required for its protection, if the mother country could enter into a treaty with the several maritime powers trading to the East Indies, whereby, under their mutual guarantee, this colony, with its ports and bays, were declared neutral to the effect that in case of a war breaking out between any of the nations being parties to such a treaty, this colony shall remain free from any hostile attack by the subjects of any of them; and the vessels of those nations allowed at all times to frequent it in perfect amity, for the purpose of refreshment, trade and commerce. " (19)

C H A P T E R. 1V.

PARLIAMENT.

1. The Relation between the Houses.

Friction over money bills- Rise in importance of the Assembly - Redundancy of the Council.

2. The effect of holding Parliament in Cape Town.

The difficulty of obtaining competent legislators. Fear of a Table Mountain Government. Change of complexion as the country members left.

3. The Franchise.

The coloured vote - Election abuses at Cape Town.

4. Parties.

East v. West. The Grahamstown Party
The Voluntary party - Conservatives and Liberals.

5. Attitude of the Government and the Country to the Parliament.

CHAPTER IV.PARLIAMENT.

The ordinance for establishing a parliament at the Cape of Good Hope had set up a legislature consisting of the Governor and two elective Houses. The House of Assembly consisted of 46 members, 10 fiscal divisions in each Province returning two candidates each, and the Cities of Cape Town and Grahamstown returning 4 and 2 members respectively. The Legislative Council consisted of 8 elected by the Western Province and 7 by the Eastern Provinces acting as single constituencies. In 1866 the members were increased to 66 in the Assembly and 21 in the Council, the West retaining its majority of 2 in the Assembly and one in the Council. (1).

The relations between the two Houses were on the whole amicable. Both carefully defended their privileges, each keeping a sharp look out for anything in the proceedings of the other that might be construed as breach of privilege, but nothing, except waste of time, resulted from this vigilance.

The friction over money bills was more serious. The Council, a popularly elected body, was allowed under the constitution, to amend and reject but not to initiate money bills. This it insisted on doing, in spite of furious protests from the House of Assembly that such a course was most unconstitutional. There were sharp clashes between the Houses on this issue in the first two sessions of parliament, but as money bills usually reached the Upper House late in the session when

(1). Constitution Ordinance S 4 - 7.

G. Gazette. 13/10/1865. Act No.1. of 1865.
Sections 3, 22, 24.

there was little time for discussion, the Council gradually relaxed its claims to amendment, and incidents of friction on this score in the 'sixties were few and unimportant. (2)

Comparatively few bills passed by one House were rejected habitually by the other, but from 1862 to 1870 there were some important exceptions. The Assembly rejected the "usury bill", the Council's measure for limiting the rate of interest in the Colony, and the Council rejected the paper currency and voluntary principle bills, two of the most important and controversial matters of the day. These are but examples of the natural conservative tendencies of the Upper House, and it cannot be said that a state of deadlock ever existed between the Houses during this period,

Under the constitution the two Houses were to have equal powers, the only stipulation being that money bills were to be introduced into the Assembly and not the Council. The Councillors, with their title of "Honourable" and their high property qualification, included among their number some of the most influential men in the colony, and it hurt their dignity that the majority of the bills were introduced by the government into the Assembly, and that they, in the manner of most Upper Houses, had nothing to do at the beginning, and a great deal to do at the end of the session. In 1870 the Governor was requested to introduce more bills into the Council. George Wood of Grahamstown pointed out that if this were done the Council would be able to appoint select committees and contribute much useful information to the Assembly, where time would correspondingly be saved, and important bills would not be shelved.

(2) Ordinance S.88
C.H.B.E. p. 379

The Council too, would be able to give bills its full consideration, instead of rushing them through at "railway speed" at the end of the session, when most of the country members had returned home. (3).

Presumably the government bills were introduced into the ASsembly because the Executive could take charge of them ~~there~~. The Council, therefore, decided its own fate by not allowing the officers the same privileges as other members. In this connection it is interesting to note that while the Council and the Assembly exercised more or less equal weight and influence at the beginning of the 'sixties, as the Executive power was increased in the Assembly, it gradually became the dominant House, so that on the ~~in~~formation of a responsible ministry in 1872, only one out of five members was chosen from the Council.⁽⁴⁾

The Governor, therefore, was unsympathetic towards the Council's request, and replied that the fault lay not in him, but in the constitution ordinance, which set up two Houses which retarded each other. He considered the the colony " overloaded with legislative machinery".⁽⁵⁾

The Governor's opinion of the redundancy of the Council was shared by many in the colony. The two Houses were elected on the same franchise, and the wide constituencies of the Council, which were intended to combat localism served only to perpetuate the cleavage between East and West. (6). The Council was at first a duplication of, and later a check on the Assembly, and in

(3) C.A. 14/4/70. (12/4/70) Debate in the Council.

(4) The proportion of the members of the Assembly to the Council was 3: 1.

(5) C.A. 21/4/70. (19/4/70) Message to the Council

(6) Constitution Ordinance Sect^{ns} 8 to 10

neither function was it necessary . As hasty legislation could be curbed in the Assembly by the rules of procedure, and under the system of representative government, could be checked both by the Executive and the British Government, further checks were unnecessary. The Government bill of 1869 to constitute a single-chamber legislature received favourable votes from members who regarded it as a measure for the abolition of the Council. When the bill was rejected, a test motion was brought forward for the abolition of the Council, but making no reference to the provisions of the government bill which were intended to increase the power of the executive. (7) Even Porter the staunch defender of the constitution; was in favour of the abolition of the Council, for as a good liberal he thought that its conservative tendencies did ~~not~~ ^{more} harm than good. Although the motion was rejected there was a strong minority in its favour. (8)

The abolition of the Council was not, therefore, entirely a retrenchment proposal, nor was its unpopularity confined to the Government. All through the 'sixties the "August Body" was subjected to attacks in the press of which the following is a typical example. :-

"Now that the doors of the Circus are shut
 "and the Theatre Royal is closed, the city
 "public would be much perplexed to find
 "amusement for their leisure hours, but that
 "the Legislative Council performs daily at
 "two. Sefton Parry has put some very amus-
 "ing plays upon the stage during the season,
 "but none that will compare with the farces
 "which our M.L.C's perform for the delectation
 "of the Nation..... There never was such
 "a silly, ridiculous, pretentious, stuck up
 "Body as this August one of ours..... If
 "Governor Wodehouse wants the country to
 "prosper he should knock the August Body
 "on the head at once, and flings its corpse

(7) These proposals are fully described in Chapter VI.

(8) C.A. 26/8/69 (24/8/69) Assembly debate on the proposal for a single chamber legislature.

" "outside the precincts of
"the constitution " (9).

The Colonial legislators, certainly, were not men of great ability or national outlook. This was due in part to the holding of sessions in Cape Town, at the extreme end of the Colony. Members residing more than ten miles from Cape Town were granted a personal allowance of £1 for every day that they attended parliament, not to exceed £50, and a travelling allowance of 1s per mile on their journeys to and from Cape Town. (10)

This did not compensate them for their several month's absence from their business or their farms, and the government frequently complained that the colonists of "superior quality" saw no incentive to travel to Cape Town, and only those eager for notoriety would stand for parliament. There appears to have been some truth in this assertion, for although there were some very able men in parliament, some of them undoubtedly, were "animals of a queer description". (11)

In the general lack of higher education there were few men of "Superior quality", capable of parliamentary work, and some of the country constituencies had difficulty in obtaining representatives. The inevitable result of this was that several of the country districts elected men living in or near Cape Town, thus increasing the fears of the Eastern party of a Table Mountain Government. These fears were groundless, for the educated men were naturally living in the chief towns, and Grahamstown too provided many members for the Eastern constituencies. In the Legislative Council, in spite of the cumulative

(9) C.A. 8/5/62

(10) Constitution Ordinance S.90.

(11) C.O. 5856 G. p.312. S to Hartley 29/10/69

vote, most of the members were residents of one of the cities. (12) During the retrenchment drive of 1866 to 1870 the government and several members wanted to abolish the £50 personal allowance to members. This was strongly opposed on the ground that it would disenfranchise the country districts, which would be forced to return men living near Cape Town. If this measure had been passed Grahamstown would have had just cause to fear a Table Mountain government.

A more important result of the holding of parliament at the extreme end of the colony was the effect on its proceedings. Both Houses were small, especially the Legislative Council, and as there was little party organisation the complexion of the Houses varied from day to day. The Eastern Province members were scarcely ever in their places at the beginning of the session, and they usually went home after fifty days, some time before the prorogation. The result of this was that it was possible for the Western members to pass controversial measures before the arrival of the Easterns, but this action was so strongly condemned by public opinion that no important measures were discussed in the early days of the session, and the Houses usually adjourned until the country members arrived. The Eastern party, on the other hand, was in a minority and had no such scruples. The Grahamstown session was too good an opportunity to miss, and at the end of the session the Council passed a resolution in favour of holding the next session

12) C.A. 8/12/66 (6/12/66) A resolution was brought forward in the Assembly for changing the mode of election to the Council, "with a view to having the country interests more fairly represented in that House."

in Grahamstown, but the Western minority in the House of Assembly succeeded in obstructing the motion when it was sent down for concurrence. (13) Once, when shortly before the prorogation one of the Western members of the Council left for England on the mail steamer, Eastern members who had returned home were hastily summoned, and with the casting vote of the President, passed a resolution in favour of the removal of the seat of government. (14)

Owing to the different outlook of town and country, the complexion of opinion changed perceptibly as the country members departed, and the resolutions of a single session were sometimes incompatible, quite without intention.

Apart from the natural predominance of the towns over the country, the working of the franchise does not appear to have been open to criticism. The fear expressed in the many discussions on the granting of a parliament to the Cape that the low franchise would give too great political power to the coloured races, was unfounded. Outside Cape Town and the Mission stations there were few who fulfilled the £25 occupancy and salary qualification who had sufficient ^{interest} in public affairs to become registered voters. (15) In Cape Town the coloured vote led to so many election abuses that the conservatives used it as their central argument for raising the franchise. Dr. White, the member for Riversdale, in introducing a bill in 1866 to raise the salary and occupation qualifications to £50 per annum, said that the change would not in any way affect the European population or "any decent mechanic or artizan"

13) V & P of H. of A. pp. 592-594. 1864. G.E. 21/7/64 (19/7/64)

14) C.A. 18/7/67 (17/7/67)

15) C.H.B.E. pp. 378, 379.

but would disqualify many "who were on the verge of barbarism". Solomon thought that raising the franchise would not check the abuses, for they were largely dependent on the methods of registration. (16)

The list of voters compiled largely from municipal lists of householders, was very inaccurate. It gave only the name of the voter, sometimes stating his Christian names and sometimes just his initials, with no reference to his residence or occupation. (17) Thus in Cape Town where there were probably over fifty Abdols on the list, who quite probably were unable to read or write, mistakes were frequent and personation easy. The polling officer, if he thought that a man was giving an incorrect name, had no power to stop him voting, and could only ask him two questions; if he was the man given on the list, and if he had already voted. The penalty of £50 for a wilful false answer did not deter touters from encouraging personation. (18) These touters accompanied the voter into the polling booth and stood beside him, prompting him until the polling officer registered his vote. The system obviously gave great opportunity for bribery which the corrupt practices act was unable to check. (19)

In the elections for the Legislative Council the scrutineers appointed under the constitution disqualified the votes of all Abdols if they found that an extra one had voted, as they did not know which had voted illegally. This meant that a single case of personation could disenfranchise quite a number of people. (20)

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- 16) C.A. 8/11/66 (6/11/66) 2nd reading of franchise bill in Assembly.
 17) (A 9 - of '68) p.10. Report of Sel. Committee of H. of A. on Registration of Voters.
 18) Const. Ordinance S.42.
 19) (A 9 - '68) p.13
 20) Report of Select Committee of H. of A. on scrutineers of Leg. Co. 1863.

The coloured vote in Cape Town, therefore, though it was not sufficiently important to give predominance to, caused a great deal of unpleasantness and inconvenience. This could, however, have been remedied by a better system of registration, and greater care over the conducting of the elections. It was not a necessary evil dependent on the low franchise. (21)

At the elections candidates gave their opinions in favour of or against important questions of the day, with one exception, mentioned below, they did not stand as members of a party. Party organisation in the modern sense did not exist, yet there were numerous groups in parliament, bound together by a common opinion, and usually under a recognised leader. The influence of the personal leader was strong, and was the chief force in binding members of a party together. Before 1866 these parties overlapped each other, had little cohesion and differed according to the subject under discussion. There was a railway party, a sub-guarantee party, a voluntary party, a responsible government party, a free trade party and parties to oppose all these measures. There was, however, one important exception before 1866, the Grahamstown or frontier party, composed of the Eastern members of parliament, excluding the representatives of the midland districts of Graaff Reinet and Colesberg.

The Grahamstown party reached the height of its influence in 1861, with the formation of the separation league, to work for the separation of the provinces, and later, the removal of the seat of government from Cape Town, equalisation of representation in parliament, or the holding of alternate sessions in the Eastern and Western provinces. This is the nearest approach to the formation of a party platform that

took place under representative government. In opposition to the Eastern party were the Western members who were not so closely organised and who had no principles except to oppose the Easterns. Several Western and a few Eastern members were neutral, they were mainly the legal element, plus a few 'government men', the consistent supporters of government policy who despised party bickering.

At first these parties opposed each other only in debates on the planks of the Eastern platform, but during the Grahamstown session the Westerns were in a bad humour, and as the bitterness increased nearly everything was decided on party lines. Bridges, railways, roads, and even gaols would be supported by the members for the Province of their construction, and opposed by the other province. As most of the unappropriated crown lands lay in the Eastern Province, their disposal became a controversial matter, and the Westerns rejected the proposed Supreme Court reform on the ground that it caused a judicial separation between the provinces, which might well lead to political separation. (22)

"I do not believe", said Wodehouse, "that there is any prospect of this colony being governed in a manner calculated to promote the best interests of the people, unless means can be found for allaying that most precious political jealousy which divides the Eastern and Western provinces". (23)

The climax was reached in 1865, when both parties were dissatisfied after the Grahamstown session, and the bills for increasing the representation in the House of Assembly came forward as a result of the proposed annexation of British

22) G.E. 11/6/64 (10/6/64) Debate in the Assembly

23) G.A. 16/4/67 (13/4/67) Opening Speech 1867

Kaffraria. The annexation bill made allowance for four members for that colony in the Assembly, and as this would increase the weight of the Eastern Province, another bill was introduced creating four new Western seats and adding six members to the Council, three from each province. At the beginning of the session before all the Eastern members had arrived, Solomon succeeded in obtaining the appointment of a select committee to amalgamate the two bills; for he realised that while the Easterns favoured the annexation bill, they might contrive the rejection of the increased representation bill; and if the Westerns retaliated by rejecting the annexation bill, the Imperial Act would be brought into operation by proclamation, and the Eastern Province would have four extra members in the Assembly. (24)

The joint bill was introduced and read a second time in the Assembly, and then the fight started. It became so bitter that all the previous neutrals took sides, and the parties hurled so much abuse at each other that the Speaker often had difficulty in keeping order. The Eastern members, under the leadership of Richard Rutherford^O of Graaff Reinet, refused to go into committee on the bill until a resolution had been passed in favour of equalising the representation of the provinces, and started a policy of obstruction, hoping that the bill would be dropped and the Imperial Act promulgated. The Western party refused to consider any government business, and would not go into committee on the estimates, fearing that if any supplies were granted parliament would be prorogued and the Imperial Act proclaimed. (25) All night sittings.

24) C.A. 1/6/65 (30/5/65) W & P of H. of A. 1865, p.34

25) C.A. 15/6/65 (14/6/65)

became the rule, and the fight dragged on for nine interminable weeks while the government and the public became more and more disgusted with the Parliament in general and the Eastern members in particular. The Easterns were at a disadvantage; they could not remain away from their homes indefinitely, nor support themselves, in an atmosphere of hostility, on the ecstatic resolutions carried by public meetings in Grahamstown. At last they rose in a body and walked out of the House, leaving the Western members to fight among themselves on the delimitation of the new Western constituencies. (26)

This was a clever Eastern move - their plan was to force the Westerns by their surrender to allow the House to go into committee on the estimates, and then to renew the obstruction in the Council. The plan leaked out and Solomon rigorously refused to consider the estimates until the bill was safely through the Council. (27) The obstruction began again, but the Council could not hold out as long as the Assembly, and after a month the Easterns surrendered and parliament wearily proceeded with the business of the session.

This 1865 session, though hardly profitable, is interesting because it shows, for the only time during this period, a clean division of the House into two definite opposing parties which showed concerted action. The members of each party remained constant and permanently occupied opposite sides of the House.

The Grahamstown party had dissipated its strength in this effort. After 1866, when the Assembly became more powerful than the Council, the party suffered lack of

26) C.A. 5/8/65 (4/8/65) and 8/8/65 (7/8/65)

27) C.A. 17/8/65 (15/8/65)

leadership, for Godlonton, its leader, and many of its strongest props sat in the Council. The elections under the annexation act brought in fresh blood, and the colony was so heavily in debt that all quarrels had to be submerged in the search for relief. Thereafter the parties took up a new alignment of 'liberals' and 'conservatives' which broke across provincial bounds. The Eastern members still voted together on the question of the removal of the seat of government which was brought forward in 1867 and again half-heartedly in 1870, but the Grahamstown party as an important force in politics had ceased to exist.

The voluntary party, although its members acted together only on a single question, that of the abolition of government ecclesiastical grants, is of interest because it made the first systematic attempt to win a general election, the first election of 1869. Solomon, the father of the voluntary bill, and the leader of the party, worked exceedingly hard over that election, and succeeded in obtaining a voluntary candidate for nearly every constituency. (28) His efforts were not immediately successful, for he lost his seat through splitting the voluntary vote in Cape Town, and the bill was rejected in the Assembly although introduced by Porter, the most able speaker in the House. This is the only example, during this period, of a party openly fighting an election and controlled by a central organisation.

After 1866 the Liberal and Conservative parties were not so clearly defined as the old Eastern and Western parties. They can be far more accurately described as the

28) C.A. 23/3/69 and early months of 1869.

comprehension and explanation, and even the most involved problems became clear under his handling. His sincerity, competence and real hard work won him admiration and support. (32)

In 1869, Cape Town returned Porter as a member of the Assembly, where his eloquence and charm were used to support Solomon's cause. The position of these members for Cape Town was a strange one, except on the matter of the voluntary principle, they did not lead any definite party or group, but exerted a tremendous influence on the House in debate. Solomon led the House whenever concerted action was required, but his leadership was due rather to intellectual ability than to personal ties.

Included under the designation of liberals, for no apparent reason except that they were opposed to the conservatives and the government, were the followers of Molteno, who formed a compact group. Although they were both called liberals, Solomon and Molteno had little in common beyond a desire for responsible government and a belief in the constitution. Their opponents made much of the fact that a cabinet containing both of them would have divergent ideas on all matters of importance, more particularly the voluntary principle and agricultural and native policy. The only occasions on which Molteno appeared as leader of the House were in 1864 at Grahamstown when Solomon attended for a very short period, and in 1869 when he lost his seat. The session was marked by such constant and bitter attacks on the government that Wodehouse dissolved the Assembly. When Solomon regained his seat the Colonial Secretary privately expressed the opinion that his return alone made the dissolution worth while. (33)

32) Drus, pp. 50 and following

33) C.O. 5856 H. p. 46. S. to Schermbrucker 31/12/69

Molteno was a large landowner and possessed a great deal of influence among the Western farmers, and there are frequent references in debates to the "member for Beaufort and the gentlemen who act with him", or to the advantage Molteno gained from his 'compact majority'. An examination of the division lists shows that there were by no means a majority habitually voting with him, but his group was constant and faithful, and gave him a considerable influence in the House. In 1869 his power was increased by the co-operation of Porter, who toned down his attacks on the government, thus adding many of the more moderate members to his side. The Colonial Secretary after some stormy scenes in the House complained that argument was useless in the face of Molteno's following, and summed up the situation accurately by saying that Molteno would vote the bauble pink instead of yellow, unless he accepted an amendment from Porter that it was not pink, but a light rose colour. (34)

For about four months of every year the Colonial Secretary had to leave his office and use all his powers of persuasion to obtain supplies for the government and overcome the almost permanent opposition of Molteno. He had to watch precious time being fritted away while the Houses maintained their privileges or indulged in fruitless squabbles between East and West. Southey had a very low opinion of the Assembly, he thought that the members used their position to further their land speculations, and that when urging retrenchment they tried "to turn as much money as they could into their own or their friends' pockets. (35)

The derogatory opinion of parliament was not confined to the government. Apart from Solomon's circle who regarded

34) C.A. 14/8/69 (12/8/69). Debate on retrenchment resolutions.

35) C.O. 5856 D. Southey to H. Hudson (C.C. of Somerset) 17/8/66
Southey to Vulyan 19/4/67.

parliament as the organ of the Voice of the People, the general opinion seems to have been apathetic, amused or distrustful. The 1865 and 1866 sessions did much to lower the prestige of a parliament that many regarded as an expensive innovation that had not come up to expectations. The conservative press was outspoken :-

"No candid mind can survey the proceedings of our legislature without feeling that its action is of the flimsiest, its energies weak, ill-divided and its policy mistaken, its decisions feeble, and its pretence to government a sham." (36)

In spite of the waste of time and the futility of much that it did, parliament was of value to the country, chiefly because of the presence of men like Solomon and Porter, Godlonton and Rutherford^O. Men such as these were of great value in the framing of public policy, and in keeping a watchful eye on the government. It is very unfortunate that their sterling worth should so often have been overshadowed by the divisions and pettiness that so often characterised the Cape parliament.

CHAPTER V

CONTROL OF FINANCE

1. Limitations on parliamentary control

The reserved civil list, the arrangement of the
financial year.

Lack of knowledge of administrative needs

2. Control of taxation

3. The Governor's plan for, and parliament's views on
equalisation of revenue and expenditure.

4. 1863-1865 Preliminary

5. The Retrenchment Committee of 1866

Failure of parliamentary initiative

6. 1867 and 1868. Subsistence on loans

7. 1869. The failure of force

8. 1870. The position of the reserved schedules.

C H A P T E R V
THE CONTROL OF FINANCE.

The chief source of disagreement between the Executive and the Legislature under the system of representative government has always been the control of finance, one of the most important functions of parliament.

At the Cape of Good Hope the parliament was at a disadvantage in this respect, for the British Government, profiting by the experience of this system gained in other colonies, had, on granting a constitution to the colony, established a permanent civil list by an appropriation under order-in-council. The salaries of the chief officials, pensions, ecclesiastical grants, and certain items of border expenditure were thus placed beyond the control of parliament, as the order-in-council could only be amended by an act of parliament, which required the royal assent. (1)

The method of voting supplies made parliamentary control difficult. The financial year ended on December 31st, and, as parliament usually met in April, the members discussed the estimates for the current year, and the appropriation act was not usually passed until August of that year. Another appropriation act was then passed for the first six months of the following year, without further discussion, and based on the estimates that had been passed for the current year. This complicated system meant that parliament had no real opportunity of discussing money grants before they were voted.

Thirdly, the members had little knowledge of the working

1) See Appendix.

of the executive, and no way, other than consulting the officers, of ascertaining what supplies were necessary. The opposition had never had to form a cabinet, and knew little of the needs of an administration. The House did not like to take the responsibility of refusing sums that the executive claimed to be necessary.

In one respect parliament had a wider control of financial policy than is usual. The constitution ordinance stated that bills granting supplies to Her Majesty "or the imposition of any impost, rate, or pecuniary burden upon the inhabitants shall originate in, or be by the Governor of the Cape of Good Hope introduced into the House of Assembly of the said Colony." (2)

The House of Assembly interpreted this to mean that private members could introduce taxation. Several taxing bills were so introduced, but the only one that passed the Assembly was rejected in the Council by a majority of one, on the ground that the procedure was unconstitutional.

Wodehouse, arriving to find a colony on the verge of bankruptcy, with a revenue insufficient to meet the current expenditure, evolved a plan for straightening out the finances, and expounded it to parliament at the opening of the first session. Its three main points, in order of importance, were: that the revenue derived from the sale of crown lands, instead of being frittered away on payment for the general purposes of government, should be paid into a sinking fund for the redemption of capital debt incurred on the construction of public works and that this fund should be

2) Const. Ordinance S. 88

controlled by the government; that the revenue and expenditure should be equalized by increased taxation; and lastly that the government should cut down expenditure and extravagance by a firm control and organization of all departments, in particular that of the Colonial Engineer. (3)

The first proposal was rejected by parliament, because some of the members thought that if the government gained control over such a fund, parliament would lose what little control it possessed over finance; and because Molteno and others distrusted sinking funds and realized that such a large appropriation of revenue would necessitate further taxation. Many of the country members thought it their most solemn duty to their constituents to prevent the government from levying taxation. The Governor's last proposal was the only one which found favour in their sight, and they consistently maintained that the equalization of revenue and expenditure could and must be brought about by retrenching the overgrown establishments and government departments. (4)

Unfortunately 1862 proved an unfavourable year, drought, pests, and epidemics were followed by a slump in land values, and the revenue fell short of that for 1861 by £67,000. (5) On opening the 1863 Session, Wodehouse announced that he had been forced to raise a loan of £60,000 to defray current expenditure, that retrenchment must be difficult and slow, and that he would not consent to more loans. To bring about equalization he proposed a rate on land and four taxes that would fall on the commercial community. (6) The transfer

3) (A 1 of 62) The Governor's Opening Speech.

4) C.A. 17/5/62. Debate in the Assembly.

5) G.H. 31/9. Wodehouse to Sec. of State No. 132 of 29/9/63.

6) C.A. 20/4/63. Opening Speech.

duties bill and the succession duties bill were both passed, the former in the teeth of the opposition of the landed interest; the auction duties and immovable property bills were decisively rejected, and the stamp duties bill was passed in an amended form. The Legislative Council thought the revenue was sufficient if carefully used by the government, but passed a bill to raise a loan of £150,000. (7)

The members' desire not to commit themselves to taxation was no doubt influenced by the fact that they would have to face their constituents before the year was out, so they salved their consciences by pruning the estimates and bringing about a retrenchment of £16,000. (8)

At the beginning of 1864, in spite of improved seasons, the Executive Council, in the face "of the extreme disinclination which has been year by year evinced by the parliament to raise the revenue to an amount equal to meet the expenditure sanctioned by them" decided that immediate retrenchment was imperative. Therefore all public works were stopped, except the road from Katberg to Knysna and the Lange Kloof where the convicts were employed, and the relief works at Van Staden's river. (9) The Governor informed the new parliament of this step at the opening of the session at Grahamstown, but added that little relief was to be expected from retrenchment. He again proposed new taxes, which through the support of the grateful Easterns, the return from sick-leave of the eloquent Porter, and some degree of Western absenteeism, were acceptable to both Houses. The

7) C.A. 21/7/63, 27/6/63 (24/6/63), 28/5/63.

8) C.A. 21/7/63 (20/6/63).

9) Ex. Co. 7 No. 1 of 7/1/64.

government was further relieved of the upkeep of the roads, the responsibility for them being transferred to the Divisional Councils, who were given powers to levy tolls for this purpose.⁽¹⁰⁾ In a burst of enthusiasm, Wodehouse declared that "nearly all that (he) ever desired of the Session had been done." (11)

In 1865 parliament was engaged in the annexation struggle, and much to the disgust of the Governor, had no time for financial considerations.

In these early sessions of 1862 - 1865 parliament passed several important administrative acts, and especially in 1864 and 1865, spent a great deal of time in full dress party struggles between East and West. Finance was but one among many considerations. Parliament contented itself with rejecting the Governor's proposals, but did not attempt to offer anything constructive in their place. After 1865 however, the financial position had become so serious that it overshadowed all other problems.

At the opening of parliament in 1866, the Governor said that a crisis had arrived in the financial administration, and that the colony had never "stood in greater need of the exhibition of an honest, earnest and conciliatory spirit." He appealed to all to sink their differences for the common good and to co-operate with the government in finding a solution for the financial problem. The speech was immediately successful, the sedate audience applauded him, and the enmity between East and West was laid aside. (12)

When the Colonial Secretary moved that the House go into Committee on the estimates, Rutherford moved that they be

10) G.E. 12/5/64 (11/5/64).

11) G.H. 31/9 No. 69 of 11/8/64.

12) C.A. 8/9/66, (A 1 of '66) Opening Speech.

referred to a select committee, with special instructions to inquire into the problem of retrenchment. He said that representative institutions were on trial, and that the House was now given an opportunity to show that its control of the purse was no chimera. Molteno and Solomon, who had served on finance committees before, thought that such a course would be of little use, and when the Attorney-General stated that, if the House passed a resolution in favour of the principle of retrenchment, the government would prepare new estimates, cutting away several large establishments, Solomon moved that the estimates be referred back to the Governor with an address in favour of retrenchment. He thought that the government would be far better able to propose feasible retrenchments than the House. Unfortunately this wise proposition was decisively defeated. (13)

On September 28th a committee of seven was appointed, Rutherford was Chairman, and neither Solomon nor Molteno nor any of the old and experienced members were placed on it. Of the seven members, three were new to parliament, being returned in the elections which followed the passing of the increased representation bill of 1865. The committee reported on November 5th, and during those five weeks while it was amassing evidence parliament refused to attend to any important business.

The report had five conclusions,

- 1) That the state of affairs was due to extravagance.
- 2) That certain offices should be amalgamated.
- 3) That the conduct of public business was unnecessarily complicated, and that economies might be introduced through simplification and the prevention of overlapping.
- 4) That the number of offices in the public service should be reduced rather than the salaries of officials.

- 5) That certain departments, postal, judicial, and convict, should be reorganized.

The committee then made recommendations for the amalgamation of certain offices, including those of Treasurer and Auditor, and for changes under nearly every head of expenditure on the estimates. A schedule was appended showing reductions amounting to £86,855. 14s. 2d. The report concluded with a statement that the onus of carrying out this retrenchment now fell on the government. (14) These conclusions, together with requests for the re-arrangement of the permanent civil list and a change in the financial year, were embodied in a series of resolutions, and transmitted to the Governor with a copy of the report, for his guidance in the framing of the estimates for 1867, which the House desired as soon as possible. (15)

The Governor's reply to these resolutions was conciliatory and pleased the House of Assembly. He asked for further details for the framing of the estimates, such as exactly which offices were to be abolished and when, and what compensation should be payable. (16) The House, however, refused the required details, placing the responsibility of retrenchment on the Governor, and offering to criticise his effort when it appeared. (17)

The report of the committee had been hastily and carelessly drawn up, and was immediately criticised by Solomon, although he rather despairingly supported it. Besides its

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- 14) (A 3-'66) Report of the Select Committee of the H. of A. on retrenchment.
 15) V. & P. of H. of A. 1866 p. 263.
 16) V. & P. of H. of A. p. 294.
 17) Ibid pp 315 & following.

inaccuracies it was full of vague and high sounding sentiments, but gave no indication of how these sentiments were to be translated into fact. The Governor described it as "a curious combination of loose generalization and minute detail" (18) while the Colonial Secretary thought its recommendations were

"partly impracticable, and in other cases very injudicious, and on the whole, if carried into operation, would not effect anything like the reductions in expenditure contemplated." (19)

The Government realized that the House was so determined on retrenchment that opposition to their schemes was fruitless, but Southey feared that they would not accept the retrenched estimates for 1867, being always unwilling, when it came to the point, to abolish public services. (20)

His forebodings were only too correct. The supporters of the committee were mainly country members, and as the session dragged on they departed for their homes, leaving a rump parliament to deal with the estimates for 1867 which were submitted on December 27th. These estimates were accompanied by an explanatory message from the Governor setting forth the extent to which the resolutions of the House had been carried out. Instead of the reductions in salaries and general clipping of expenditure off all departments proposed by the committee, the Governor's scheme cut chunks out of some establishments, leaving others intact. He proposed the abolition of twelve magistracies, the periodical courts (minor magistrates' courts of the first instance), and the travelling and personal allowances of members of parliament. (21)

18) G.H. 31/10 No. 6 of 19/1/67.

19) C.O. 5856 D. p.56 S.A.P.G. Julyan 19/11/66.

20) C.O. 5856 D. p.79 Southey to M.Garcia 26/12/66.

21) V. & P. of H. of A. 1866 p.494.

The House made little pretence of discussing the government plan, and Molteno urged the members not to consider these "sweeping changes" at the tail end of the session in a thin House, and carried a motion declaring that the House would provide for the expenditure of the first six months of 1867 only, along the lines of the original estimates for 1866. In spite of opposition from Solomon and the Colonial Secretary, who urged the House not to stultify the proceedings of the session by abandoning both the retrenchment schemes, the appropriation bill for the first six months of 1867 was passed. (22) The session, marked by the Governor's opening appeal and Rutherford's aspirations to control of the purse, produced only fourteen insignificant acts, and Wodehouse said its results might "almost be summed up in the passing of two or three bills for borrowing money." (23)

The retrenchment committee had failed because its members did not have sufficient knowledge of the administration to suggest possible reforms, and because they did not have sufficient perseverance to carry their suggestions through parliament into actions. The Colonial Secretary thought that the retrenchment proceedings were "the shallowest things yet perpetrated by parliament." (24)

During the recess the government did its best to retrench the departments, and circularised the civil commissioners, asking them to recommend retrenchments in the local government. (25) In opening parliament three months later, the Governor said that he had carried out as many as possible of the recommendations of last session, and now unwillingly proposed the abolition of six magistracies and the substitution of one house of eighteen elected and three official members, for the present legislature.

22) C.A. 29/12/66 (27/12/66), (28/12/66).

23) G.H. 31/10 No. 6 of 19.

Act No. 9 raised £50,000 for the Table Bay breakwater and docks.

Act No. 11 raised £200,000 and No. 12 £50,000.

24) C.O.5856 D. p.131. S. to Darnell (M.L.A. for Queenstown) 5/2/67.

25) Ex. Co. 8 No. 22 of 30/9/67.

In spite of this retrenchment a deficiency of £59,129 was expected, and to cover this, he proposed an export duty and a tax on wool, and that licences should be taken out for grazing rights on crown lands, and on the use of small boats.

He announced that the British Government had at last determined to put into force the Newcastle-Cardwell plan for the withdrawal of the Colonial troops, and that after 1868 the average cost of a regiment of 650 men would be £26,000 a year. (26)

In introducing the budget the Colonial Secretary struck a cheerful note, saying that the government would have enough money for the current year, although retrenchment was proving impracticable. This optimism was shared by Molteno who thought that by a little clipping of expenditure and slightly increasing the revenue, equalization would be achieved, but Solomon showed that this optimism rested on the false base of the loan of £250,000 of 1866. (27) His was a voice crying in the wilderness and the House rejected the boat tax bill and a government proposal to introduce a paper currency. The wool tax and export duty were not even proposed in the Assembly, but the squatters licence bill was passed. The attack on the government constitutional amendment plan caused its withdrawal, and the rest of the Governor's retrenchment scheme was rejected in a motion against the abolition of any magistracies. (28)

In 1868 the government did not have to ask for further taxation, the session was quiet, and the House of Assembly even re-opened the discussion of railway construction. The experience of these two sessions goes far to show that when the government

26) C.A. 16/4/67 (13/4/67).

27) C.A. 8/6/67 (6/6/67).

28) C.A. 11/7/67 (9/7/67).

Walker's statement (History of S.A.p.315) "Meanwhile the assembly refused to hear of a tax on wool, but sacrificed half a dozen magistrates on the altar of economy" is therefore untrue. It appears to be based on the Imperial Blue book C.459 of 1871, pp 10 ff. where the Governor's proposal in the opening speech is quoted.

had sufficient money to carry on the administration, there was little friction between executive and parliament.

The loans of 1866 could not last for ever, and in opening parliament in 1869 Wodehouse announced an expected deficit of £91,306. He said that salaries were so low that they could not further be cut down, and as neither parliament, nor the country, was in favour of reducing establishments, the only alternative was increased taxation. He therefore proposed a moderate income tax, which was to be levied under five schedules, and realize £50,000. The House of Assembly, however, rejected this proposal, and carried another resolution in favour of retrenchment. (29)

The Governor replied that parliament, which was responsible for the extravagance, should be the first to suffer retrenchment, and he once more brought forward his proposal for a single chamber legislature. He also proposed the reduction of fourteen fiscal divisions of the colony, while retaining their officers as magistrates. A constitutional amendment bill and a fiscal divisions reduction bill were accordingly introduced into parliament, but neither passed the Assembly. (30)

The message was answered by Molteno in the form of nine resolutions condemning the Governor's message and his so-called retrenchment scheme, and suggesting the reduction of the salaries of the Governor and the higher officials on their offices becoming vacant, and the abolition of several minor clerkships. (31) Wodehouse asked the House to carry out their reductions on the estimates, and refused to introduce the necessary bills for reducing the salaries and pensions on the reserved schedules of the permanent civil list. The House then proceeded to a discussion of the estimates, in the course of which they adopted

29) G.G. 24/6/69 C.A. 22/7/69 (20/7/69), (21/7/69).

30) V. & P. of H. of A. p.91. Message No. 11 of 2/8/69.

. C.A. 7/8/69 (6/8/69) Debate on constitutional amendment bill.

31) C.A. 12/8/69 (11/8/69).

over 70 resolutions for the reduction of expenditure in 1870, including a reduction of 5% to 15% on all officials' salaries.

The Governor again asked for bills to give effect to these reductions of the reserved schedules, and proposed four new taxes; on spirits, on mortgages and shares, on dwellings, and an export duty on wool. The house refused to agree to this taxation, but adopted a resolution in favour of increased customs duties. As the Governor refused to introduce a bill for this purpose, feeling that an increased tariff would not raise the revenue, the indefatigable Molteni introduced it, and carried it through the Assembly; but it was rejected by the conservative Council. (32)

The Governor then sent down the appropriation bill for the first six months of 1870, framed as usual in accordance with the estimates for 1869. The House referred it to a Select Committee which redrafted it in accordance with the 70 resolutions for the expenditure of 1870, but reduced the total by only £7,073. When the amended bill was brought before the House, the Governor, afraid that it would be passed in that form, prorogued parliament without any supplies voted for 1870. In his closing speech he said that the constitution was quite unworkable and that it was his intention to dissolve the House of Assembly immediately, and appeal to the country to choose between his suggested constitution and responsible government. (33)

The financial struggles of the 1869 session, therefore, had caused such bitter conflict between the executive and parliament that a solution could only be found in the most drastic step possible under the constitution.

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- 32) C.A. 7/10/69 (5/10/69) Debate in the Assembly.
 C.A.14/10/69(12/10/69) (13/10/69) Debate in the Council.
- 33) C.A.14/10/69(12/10/69) Debate in the Assembly.
 C.A.19/10/69(18/10/69) Closing Speech.

The new Parliament was opened in January as soon as the results of the elections were known. The Governor expected a deficit of £51,037 in spite of the amalgamation of offices carried out in accordance with the retrenchment resolutions, and proposed taxes on vehicles and houses, and an augmentation of the stamp duties. The government move in dissolving parliament without supplies was successful, for due to the influence of Solomon, who was once more returned to parliament, the House authorised the payment of the ordinary charges of government until May 1st on the 1869 scale. The house tax and stamps bills were passed in an amended form, and the Governor at last achieved his desire of consolidating the public debt, which now amounted to £1,423,400. At the close of the session Wodehouse proudly reported to the Secretary of State that parliament had "at length seen the necessity of providing a revenue more sufficient for the requirements of the public service", and that there was "a probability of the government being enabled to avoid further additions to the public debt." (34)

When the House went into committee on the estimates, Solomon raised the question of the right of the government to rearrange appropriations removed from the control of parliament. (35) The expenditure of each department was shown on the estimates in two columns, the first column made up of sums payable under the reserved schedules, and the second showing extra expenditure required to be voted by parliament. The House could therefore strike out anything from the second column, but could not touch sums in the first column.

34) G.H. 31/11 No. 56 of 6/5/70.

35) C.A. 8/2/70 (7/2/70).
See appendix.

The reserved schedules appropriated a lump sum to each department, making no reference as to how that sum was to be spent. Before the opening of the first parliament it was apportioned according to existing requirements, and this apportionment remained constant and as expenditure grew, the sums in the second column were increased.

When the estimates were presented in 1870, it was found that the first column had been reorganized, and the lump sums redistributed in their particular departments. Solomon immediately demanded the reason for this, and the Colonial Secretary was at length forced to admit that the schedules had been filled up to their utmost capacity, the total for each department in column one being equal to the lump sum on the reserved schedules. The rearrangement had placed the salaries of those officers which parliament had attempted to reduce in 1869 in the first column, and placed other expenditure which it was likely to sanction in column two.

The Attorney-General, in a very able speech, argued that the ordinance gave a lump sum to each department, and the government had every right to arrange any division it chose of that sum. Solomon and Porter, while they agreed that the government had the legal right to do so, claimed that the rearrangement was most unconstitutional because there was no precedent for such action. They pointed out what they thought to be the extreme dangers of this principle, for it meant that the Governor, if he chose, could devote the entire proceeds of schedule C to the propagation of Mohammedanism, or under section 2, appoint as many officers as he chose for the collection of revenue. By the use of arguments such as these they succeeded in condemning the changes by resolution. (36)

The Governor in a message to the Assembly, said he was not trying to deprive it of its functions, but to carry out the purpose of the reserved schedules, the protection of the civil servants and the colony, so that,

"with an Executive Government carefully constructed on the weakest principle, their affairs might not at any moment be thrown into confusion by some hasty impulse." (37)

He was, however, infringing one of the most important functions of the House in attempting to deprive it of its control over expenditure; especially as the ordinance was not intended to be a permanent appropriation, but was to have effect 'until parliament shall otherwise direct'.

During the period of representative government parliament failed to control financial policy. It controlled taxation, having powers both to initiate and to reject the government proposals; but in the matter of expenditure it could only block the government schemes without offering anything constructive in their place. The attempt to initiate a financial policy in 1866 failed because the members had not sufficient knowledge of the working of the executive to provide the necessary details. In 1869 and 1870 parliament failed to cut down the estimates by force, and the attempt led to a curtailment of its powers by manipulation of the schedules. The attempts to control expenditure brought about nothing except conflict between the executive and legislature which threatened to cause a deadlock of the constitution.

37) C.A. 1/3/70 Governor's message to House

C H A P T E R VI.

CONSTITUTIONAL REFORM.

Attempts to set up a form of government less open
to deadlock.

1. Separation and Federation.

The separation movement - Wodehouse's
Scheme for the federation of the East and West
S. African federation.

Removal of the seat of government and equalisation
of representation.

2. Responsible Government, of

Arguments in favour and against self-government
The movement for R. G.

3. Retrogression.

The proposal of 1867. The bills of 1869
and 1870.

CHAPTER VI.CONSTITUTIONAL REFORM.

The financial quarrels had persuaded Wodehouse that the constitution was unworkable, but he was not the first to hold this opinion, for right from the beginning in 1854, several people, both in Great Britain and South Africa regarded the constitution as a temporary measure.

The experience of Canada had shown the extreme difficulty of government by a weak executive and an irresponsible parliament; and the Wakefield School of thought, which regarded responsible government as the logical outcome of representative institutions had many followers among the Cape Liberals. The first large scale movement for constitutional reform came not from the Western Liberals but from the Eastern party, who declared that the colony was too large to be efficiently controlled from Cape Town.

The Separation movement, which demanded local self-government for the Eastern province, reached its height in 1861, when Harries the member for Cradock introduced his bill for setting up a separate government for the East consisting of a parliament and a governor appointed by the crown. This bill was decisively rejected by 22 : 15, for it made no provision for the division of the public debt, or the responsibility of defence.⁽¹⁾ Although resolutions in favour of separation were still introduced, they became less and less spirited, and finally died out completely.

(1). G.G. 23/4/61, Draft of separation bill.
V. & P. of H. of A. 1861. p.166.

A form of this movement which received greater support was the attempt to establish a federation of the provinces, each with its own parliament, but controlled by a central administration. Both Grey and Wodehouse had favoured this plan. The latter, after the experience of one session of the Cape Parliament, suggested a federal constitution for the Colony, in which each province was to be governed by a Lieutenant Governor, an Executive Council, and an elective parliament. The central government consisting of a Governor, Executive Council, and elected legislature (possibly chosen by the provincial legislatures) , was to control "foreign relations, the disposal of the troops and frontier police, the management of the public debt, of the customs and the post office, and the regulation of the laws of marriage and inheritance".

He did not favour the introduction of responsible government in either the central or provincial governments, and desired that British Kaffraria be annexed to the Eastern province.⁽²⁾ The Secretary of State , however, objected to this scheme, and Wodehouse was forced to abandon it.

Thereafter the question of federation was left in abeyance until 1872, when on the introduction of responsible government, a commission was appointed to inquire into the suitability of introducing it, but the party which favoured it was not sufficiently strong to carry its views through parliament.

The wider aspect of federation as a solution to the constitutional problem appealed to both Grey and Wodehouse.

(2). G.H. 31/9. No.95 of 17/7/62.

Both saw the different native tribes as parts of a single mass, and desired to unite the British colonies and the Free State under a single government with a single native policy. Unfortunately the British Government opposed this scheme until both Grey and Wodehouse had left the colony, leaving no one capable of carrying it out behind them. (3)

The proposal of removing the seat of government to a more central town, never met with government approval, as it would have been very extensive and inconvenient, and Cape Town was less isolated after the completion of the electric telegraph to the East in 1863. The other small amendment of the constitution desired by the East, equalisation of representation, was accomplished in 1872 on the introduction of responsible government. Except for this last insignificant matter, the Grahamstown party achieved no lasting effect on the constitution. The importance of the separation movement lay not in its concrete results, but in its influence, until 1865, on the debates and decisions of parliament.

The separation movement was fanned by the Eastern press and received impetus from the separation league; but the responsible government, which continued in spasms from 1854 to 1872 had little support outside parliament until after 1870.

The Cape Liberals followed Wakefield in the belief that representative institutions without responsible government were unworkable. Porter stressed

3) de Kiewiet. p. 187. C.H.B.E. p. 428.

the unenviable position of the members of the executive their unsatisfactory relation to the Governor, and to each other, and their inability to carry out their policy in the face of opposition from parliament. Moltano stressed the position of the parliament in being unable to control the executive effectively; while Solomon thought the chief danger of the representative system lay in the power of obstruction given to an irresponsible opposition. None of these difficulties could be solved, in their opinion, without responsible government, the only way in which executive and parliament could work together harmoniously. They asserted that responsible government was the natural outcome of representative institutions, so that if the colony was fit for the latter, it must be fit for the former, as parliament at present had a far greater power of obstruction than would be possible if the defeat of the government meant its resignation. They denied that the change would involve corruption and jobbery any more than any other system; and Solomon claimed that the Cape Colonists were men of higher character than the Australians who were adventurers and gold-diggers, so that their example in this respect would not necessarily be followed.

They claimed that self government would encourage the commercial development of the colony, as it had done elsewhere. After 1867 they had the added argument that the troops would be removed from the colony in any case, and if the British Government would not defend the colony, it should not govern it either.⁽⁴⁾

(4) C.A. 26/5/60. (22/5/60, 30/5/63, 2/6/63.

There were many objections to the introduction of responsible government at the Cape which were set forth in a protest against Barkly's opening speech of 1872 advocating the change, by the members of the Executive Council, on their minutes. They pointed to the sparseness of the population and the preponderance of the natives who outnumbered the Europeans by two to one and were mostly in a state of semibarbarism. Would the Colonists treat them fairly and wisely ?.

There was little education in the Colony, and out of a total population of 496,381, 430,774, or 86%, were unable to read and write. Of those who could read and write, the majority could read only the books used in church, and sign their names, and the Attorney-General thought that the landed proprietors, whom he considered the natural aristocracy, were illiterate. Consequently there was little public opinion in the colony. The Civil Commissioner of Beaufort West told of how a certain farmer in his district when asked to record his vote had replied, " No, if I must vote, I'll vote for the Magistrate." (5)

The franchise was liberal, and though few of the poorer classes exercised their electoral privileges there was also the danger that they would be exploited by unscrupulous politicians. There was also the old danger that competent men would be unable to leave their means of livelihood to attend parliament in Cape Town for three months a year, for the people of independent income numbered (169 males, 22 females and 3 natives.)

The literary, scientific and professional class (including church clerks and sextons, midwives, students, teachers and translators) numbered 1,910 male Europeans and 141 coloured males. It was difficult, therefore, to secure a supply of competent legislators, and through them, administrators. It needed a great deal of faith to believe that responsible government under such conditions would not degenerate into a scramble for power among professional politicians. (6)

However, in 1854, Stockenstrom and Fairbairn, the champions of popular rights, had advocated the immediate introduction of responsible government, a principle that received warm support from the liberals who filled the first parliament. In 1855 a motion in its favour was carried in the Assembly by 23 votes to 9, and in 1856 Stockenstrom carried a similar motion in the Council. (7) Soon the Eastern members began to find their feet in parliament, and offered strong protests against self-government, fearing domination by the Western Dutch. Once the separation policy was formulated, its adherents were strongly opposed to any other form of government. From 1860 onwards Molteno appeared as the champion of responsible government, and his motion of that year, though supported by the executive, was defeated by the coalition of Western conservatives and separationists that was to become permanent in the later 'sixties.

After the arrival of Wodehouse the movement lost some of its impetus, as the question of administrative reform, with which it had been associated, was tackled by the new governor. It was soon apparent that he was an efficient

6) (6.1 - '72) Protest of the Executive Council

7) Blignant. pp. 105-108

administrator, and better able than Molteno and his associates, to place the machine in working order. In 1863 Molteno's motion was dropped without coming to the vote.

After 1865, when the separation movement began to abate, a new movement arose in opposition to responsible government, and achieved a far wider support than separation had done. The events of the 1866 session showed that efficient administration was impossible while parliament and the executive disagreed over financial matters, and that the power of the government must, somehow, be increased. The governor expressed a strong opinion,

"the repeated failure may have the effect of satisfying people of the colony as to the radical defects of their present constitution. Every day serves to increase my conviction that they ought either to bring into operation the system of Responsible Government; or otherwise substitute for the present complicated and costly machinery of two Houses, one Elective body of moderate dimensions. At the present moment, I think, the predominance of intelligent public opinion throughout the Colony points to the adoption of the latter alternative, although positive action in that direction may be rendered impracticable through reluctance to adopt what would be termed a retrogressive policy." (8)

In his opening speech of 1867, Wodehouse said it was clear that the members of the two Houses "presented a most formidable impediment" to the attainment of the advantages of good government and useful legislation. He therefore proposed dividing the colony into six electoral divisions returning three members each to a single House of Parliament, in which three executive officers were to have seats and votes. (9) In opposition to this constitution, Molteno brought forward a resolution in favour of responsible government, the alternative method of strengthening the Executive's

8) G.H. 31/10 No.6 of 19/1/67

9) C.A. 16/4/67 (13/4/67) Opening Speech.

control over parliament. For the first time the proposal was discussed on its merits, without an amendment to the effect that the Country should be consulted, and was immediately negatived by 29 : 22. ⁽¹⁰⁾ The opposition to the government scheme was such that the resolution embodying it was withdrawn.

Few thought that the existing constitution could continue, and members of parliament and others who were interested in public affairs were divided into two camps, those who favoured responsible government, and those who favoured the government scheme. The latter measure gained considerable support because it was a measure of retrenchment, because the frontier party hoped that if it were adopted the Imperial troops would not be withdrawn, and because it had the full weight of government support.

In 1869 the Governor introduced a bill into the Assembly for bringing about his parliamentary reform. The existing Houses were to be replaced by a Legislative Council of twelve members, elected by twelve electoral circles; and three officials nominated and replaceable at will by the Governor. Of these fifteen members five were to form a quorum. In this manner the Executive would have the influence "to which those entrusted with the conduct of affairs are fairly entitled". The elective seats were to be "honourable objects of ambition" for the leading men of the colony. ⁽¹¹⁾

Such an abrogation of the constitution was too much even for the most conservative members of the House, who, while they accepted its principle, condemned the bill, and

10) C.A. 30/5/67 (28/5/67)

11) G.G. 3/8/69. V & P. of H. of A. p.91. 1869

announced their intention of reconstructing it in committee. Molteno and Sprigg declared that the bill sought to destroy the constitution, and could not be satisfactorily amended; and they considered it a manifestation of the government despotism. It was defeated by 39 : 22. (12)

This bill received much of its support on the ground that it abolished the unpopular Legislative Council. Many thought the Council redundant, unnecessary and costly, and would have been prepared to accept one legislative chamber of the size of the existing House of Assembly. So Probart, the junior member for Graaff Reinet and a nephew of Southey, proposed a resolution in favour of one house of between 33 and 66 members. Had the proposal been adopted it would undoubtedly have made legislation easier and cheaper, but the adherents of responsible government were afraid that it would retard the introduction of this system, and caused its rejection by 34 : 24. (13)

The rejection of the government's constitutional and financial proposals brought the Executive and Parliament near to deadlock. Wodehouse, who had already served an extended term of office to cover his settlement in Basutoland, was due to leave the colony at the beginning of 1870, and wished to settle the constitutional problem before his departure. He dissolved the Assembly and appealed to the country on the constitutional issue. From the government point of view the move was successful, for although the Colonial Secretary thought that nothing could have been worse than the Assembly of 1869, he thought the new one would be quite amenable, and the return of Solomon would exercise a restraining influence over the liberals. (14)

13) C.A. 26/8/69 (24/8/69) Debate in the Assembly.

14) C.O. 5856 H. p.43 Southey to S.Cawood M.L.C. 28/12/69
C.O.5856 G. p.322. Southey to Hon.J.Hall. 16/11/69.
Walker, (History of S.A. p.316) in describing the results of this election says : "Molteno and Sprigg were there to force the pace." (for R.G.) Sprigg lost his seat in this election.

12) C.A. 7/8/69 (6/8/69) Debate in the Assembly.

Before the opening of parliament Wodehouse received a despatch from the Secretary of State saying that the colonists must govern themselves if they would not be governed, and that he would instruct Barkly, the next governor, to encourage the introduction of responsible government. He laid this despatch before parliament, making it perfectly clear that the rejection of the government bill meant self-government. Profiting by the experience of the last session he introduced a bill providing for one house of 36 members, 32 of them elected. In a full dress debate lasting four days the matter was discussed from every angle, and finally rejected 34 : 26. By this rejection the House of Assembly accepted responsible government and in the next session passed a bill for its introduction. (15)

Wodehouse had made four attempts to amend the Cape constitution. His first proposal of federation was rejected from outside, his two attempts to revert to the old Legislative Council and his final attempt to abolish the existing Council were rejected by the House of Assembly. In addition to these abortive attempts he had been successful in annexing Kaffraria to the Cape Colony and adding 20 members to the Assembly and 6 to the Council. Solomon said of these various efforts that,

"he could not help doubting whether the physician in whose hands they were knew anything of the patients or the disease, or if he knew the disease, whether he knew the remedy", for "he had recommended so many (cures) and all so widely different; but although they were all different, they had one feature in common, they were all hostile to the existing constitution." (16)

Wodehouse conscientiously believed that responsible government was harmful and did his best to bring the Colonial Office round to his opinion. It was his tragedy that he left the Colony with the knowledge that, owing to his failure to work with parliament, the colony was to achieve what he so much dreaded - gradual independence.

CONCLUSION:

The system of representative government worked smoothly at the Cape in comparison with its working in other countries. The experience of Canada had influenced the framers of the constitution; deadlock between the Houses had been prevented by making them both elective, and the permanent civil list had saved the executive from complete control by parliament. The racial feeling between the Dutch and British elements was not so bitter as between the French and English in Lower Canada, and did not interfere with the administration of justice. On the other hand, the partiality of frontier juries made it necessary to hear cases in which Europeans and Natives were concerned in the midlands, or in Port Elizabeth. (1) Under this system the Cape had two able, though widely different Governors, and the friction between executive and legislature never reduced them to impotence.

This friction only once led to a position from which there was no constitutional escape, over the annexation of British Kaffraria in 1865. In 1869 when there was almost total disagreement between government and parliament, a solution was found in the dissolution of the Assembly, which left the 1870 session remarkably free from bitterness. While the experience of the years 1862-1870 undoubtedly gained advocates for responsible government, it did not make the change a necessity, and it was ultimately brought about through the intervention of the British Government. The withdrawal of the Imperial troops and the attitude of the Colonial Office in openly advocating responsible government caused many of the Eastern members of parliament to withdraw their opposition. (2)

Most of the quarrels during this period had their origin in finance. Grey succeeded in avoiding major

1) C.O. 5856 D. Southey to Mr. Justice Denyssen 27/5/67

2) Dicey

disagreements with parliament by giving the members a free hand over expenditure; but during the 'sixties the colony was passing through a period of depression, the revenues were falling and the debt increasing.

"Our parliament", said Southey, "is a very unworkable machine when finances are low, but if there was money to allow Members to get votes for works in their several localities occasionally, we should get on swimmingly." (3)

Another reason for the failure of Wodehouse to work with parliament was his lack of sympathy with representative institutions. For him the constitutional issue was subordinate to the larger issues of federation and native policy. For him, an efficient government was better than a popularly controlled government, and his chief complaint against the Cape Parliament was its inefficiency. Grey on the other hand, thought that popular control was its own compensation for whatever lack of efficiency it might cause. Both schools of thought have their followers at the present day.

Grey, too, had overcome the hostility of parliament by the charm of his personality; but Wodehouse, aloof and cold, had to bear the brunt of wilful opposition. The unpopularity of the majority of the members of the Executive did not help him to overcome obstruction.

In spite of these difficulties, Wodehouse worked hard and achieved much. He placed the finances and the administration on a firm footing, that made the introduction of responsible government possible, and his settlement of the Transkei and Basutoland laid the foundations of the present day reserves. One of the most unpopular Governors the Cape had ever seen, his work yet remains as a monument to his untiring energy and undaunted spirit.

3) C.O. 5856 D. p.72. Southey to Vulyan 19/12/66.

A P P E N D I X

THE RESERVED CIVIL LIST ORDINANCE

(No. 3 of 1852)

.....And whereas it is expedient that provision should be made for defraying certain expenses out of the revenue of the said colony :

1. Be it therefore enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, That the said Governor shall be authorised to pay out of the revenue of the said colony all the costs, charges and expenses incident to the collection, management and receipt thereof. Provided always, that full and particular accounts of all such disbursements shall from time to time be laid before the parliament of the said colony.

2. And be it enacted, That until the Parliament of the said colony shall otherwise direct, these shall be payable every year to Her Majesty, Her heirs and successors, out of the said revenue fund, the sum of one hundred and six thousand and ninety ppunds, for defraying the expenses of the several services and purposes in the Schedules (marked A, B, C and D) annexed to this ordinance, and the said sum to be issued by the Treasurer of the said Colony, in discharge of such warrant or warrants as shall be from time to time directed to him under the hand and seal of the Governor.

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SCHEDULES referred to in the foregoing Ordinance

	<u>Schedule A</u>	<u>£</u>	<u>s</u>	<u>d</u>	<u>£</u>	<u>s</u>	<u>d</u>
The Governor & Private Secretary		5,300	0	0			
The Lieutenant-Governor, Secretary, Messenger and House rent		2,200	0	0			
The Clerk of the Executive Council		520	0	0			
The Colonial Secretary and his department		5,500	0	0			
The Treasurer-General ditto		1,890	0	0			
The Auditor-General ditto		1,650	0	0			
The Registrar of Deeds ditto		1,000	0	0			
The Surveyor-General ditto		2,080	0	0			
The Civil Engineer ditto		2,250	0	0			
The Post Office department		2,330	0	0			
The Keeper of the Public Buildings		235	0	0			
The Agent-General in London		210	0	0			
The Secretary and Clerks of the Central Road Board		1,140	0	0			
The Supreme Court		7,935	0	0			
The High Sheriff		1,250	0	0			
The Attorney-General		1,670	0	0			
Divisional Courts		16,335	0	0			
Educational Establishments		4,100	0	0			
Medical Departments		1,895	0	0			
Police, Prison, and Gaols		<u>1,540</u>	0	0	61,030	0	0
	<u>Schedule B</u>						
Pensions					15,000	0	0
	<u>Schedule C</u>						
Public Worship					16,060	0	0
	<u>Schedule D</u>						
Border department (Aborigines)					<u>14,000</u>	0	0
					<u>£ 106,090</u>	0	0

A Comparison between the Estimates for
the Colonial Office Establishment
1869 & 1870

	Provided for in Schedule A	Provided for in Estimates 1869	Total.	Provided for in Schedule A	Provided for in Estimates 1870	Total.
<u>COLONIAL OFFICE:</u>	£	£	£	£	£	£
Salaries (£6,250)						
Colonial Secretary	1500			1500		
Chief Clerk	450			450		
Finance: Chief Clerk	300	100		400		
Two Clerks viz. £290 & £120	310	100				
Two Clerks viz. £150 & £90				240		
One for Blue Books & Statis. Correspondence: Three @ £ 250, £235, £220	560	145		250		
Three @ £250, £235, £150				635		
Parliamentary: Parlm. Clerk	250	150		400		
Despatch: One Clerk in Gov- ernor's office	300	100		400		
Registry: Three Clerks, £190, £150, £150	475	15				
Three Clerks, £205, £150, £150				505		
Indexes: One Clerk	120			120		
Records: Three Clerks, £250, £120, £120	475	15				
Three Clerks, £260, £250, £90				600		
Office Keeper @ £100	75	25			100	
Messenger @ £60	60		5775		60	5660
<u>Convict Branch:</u>						
Clerk		250			250	
Accountant		175			190	
Store Issuer		50	475		50	490
<u>Contingencies: (£530)</u>						
Stationery & Bookbinding	200			200		
Extra Clerical Assistance (including Parlt.)	135					
Miscellaneous Expenses, fuel etc.	150		485		150	350
Stationery, bookbinding, etc. Convict Branch		45	45		45	45
	5,360	1,420	6,780	5,500	1,045	6,545

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