

HOW SOUTH AFRICA IS GOVERNED

PARLIAMENT

The highest authority in the land is Parliament. It consists of two Houses.

- (a) The House of Assembly, which has 159 members. 150 are elected by voters on the ordinary roll, i.e. all European South African citizens over the age of 21, together with Coloured men in the Cape Province who are able to write their names and earn at least £50 per year. Three are Native Representatives, elected by African men in the Cape Province who can write their names and earn at least £50 per year. The remaining six are elected by the Europeans of South-West Africa. South-West Africa's population should entitle it only to two representatives, but six have been allotted because there is a Nationalist majority in the area;
- (b) The Senate, which is partly elected by the different Provincial Councils and partly appointed by the Government. The system is so arranged that the Government always has a majority in the Senate. There are also four Native Representatives in the Senate, and they are indirectly elected by the African population. Indirect election means that votes are cast by chiefs on behalf of their tribes, by Advisory Boards on behalf of locations, etc.

POWERS OF PARLIAMENT

A majority vote in Parliament can pass any new law and repeal any existing law. There are no limits on the power of Parliament except those contained in the "entrenched clauses". These lay down that nobody may be deprived of his existing voting rights on the grounds of race or colour, and that the equal status of the English and Afrikaans languages may not be altered, except by a two-thirds majority in both Houses of Parliament. If a two-thirds majority can be achieved, even these safeguards fall away.

HOW PARLIAMENT WORKS IN PRACTICE

Although Parliament is the supreme authority in the land in theory, it is in practice merely the instrument by which the will of a few men is carried into effect. Nearly all members of Parliament are members of one or other party, and they obey the orders of the party's leaders. Thus, the leaders of the majority party are in complete control of Parliament. Their decisions are automatically approved, and are often not freely discussed even by the members of the Government party. The debates in Parliament are mock battles. The result is always known beforehand, and the real purpose of the speeches is to justify the actions of the parties in the eyes of the voters. The function of an ordinary member of Parliament is not to take decisions on the country's future, but merely to make propaganda for or against the decisions which the Government leaders have taken.

THE GOVERNMENT consists of the Prime Minister and thirteen Cabinet Ministers. The leader of the party which has a majority in Parliament becomes Prime Minister and he chooses his Ministers from among the leading M.P.'s and Senators of his party. Parliament only sits for a few months every year, but the Cabinet meets continuously throughout the year to take decisions on the day-to-day affairs of government. The Cabinet also controls the voting in Parliament (for the majority party always obeys the Cabinet's orders), so that they are in fact the rulers of the country.

THE NATIVE ADMINISTRATION ACT of 1927 and the Urban Areas Act of 1945 give power to the Governor-General to make laws applicable to "native affairs". In practice, the Cabinet makes these laws because the Governor-General is only a mouthpiece for the Cabinet. Thus a large number of laws affecting Africans are made without even being discussed in Parliament. M.P.'s are spared the task of making propaganda for these laws. The Native Affairs Department simply decides what laws it would like to have passed, a secret Cabinet discussion takes place, and a new law is proclaimed. Among the laws passed in this way are those relating to cattle culling in the reserves and the "influx control" regulations which permit petty officials to expel people from the towns.

THE GOVERNOR-GENERAL has been designated by the South Africa Act and by the Native Administration Act as "supreme chief" of all Africans in the Union. Here again he acts as the instrument of the Cabinet. He has power to remove Africans from one area to another without trial, to change the territories possessed by tribes, to appoint and dismiss chiefs. Parliament can, in theory, control his exercise of these powers, but in practice his actions are not even discussed in Parliament unless some independent member raises the question.

PROVINCIAL COUNCILS are elected by the same voters as the House of Assembly. They control such matters as education, hospitals and roads.

CITY AND TOWN COUNCILS are elected by European inhabitants of the town concerned, and in some Cape municipalities Coloured people also have the vote. These councils govern local affairs and their officials run the "influx control" system and the registration of service contract passes.

### DISCRIMINATORY LAWS

DISCRIMINATORY LEGISLATION has been a feature of the activities of all South African law-making bodies throughout their history. Before Union there was a slight difference between the Cape and the other Colonies. In the Cape the franchise was given to non-Europeans, though great care was taken to keep the number of non-European voters very small. The income qualification was at first £25 per year and was raised to £50 during the 1890's in order to reduce the number of non-European voters. In the other colonies no vote was given to non-Europeans (in Natal there was a provision under which a non-European could theoretically obtain the vote, but this was virtually a dead letter from the start). In all the colonies, however, the pattern

of segregation, discrimination and exploitation was well established.

Since Union, a series of laws has been passed to consolidate "white supremacy" and to bring the Cape into line with the rest of the Union. Among the most important of these laws are:

(i) The Land Act of 1913, which deprived numbers of Africans of their rights as squatters, tenants, etc., in "European areas" and perpetuated European ownership of more than 80% of the Union's land.

(ii) The Colour Bar Act of 1927, which gave legal authority for the exclusion of non-Europeans from skilled occupations.

(iii) The Native Labour Regulation Act of 1911. This Act extended to all African workers in factories and mines the principles which had been applied to a greater or lesser extent in the Masters and Servants Act of the various colonies. Among the provisions of this Act are the punishment of workers for desertion or disobedience (if a European worker deserts or disobeys his employer, he can only be dismissed or sued for damages; an African can be sent to prison).

(iv) The Natives (Urban Areas) Act, first passed in 1923 and replaced by a new Act in 1945. This notorious law contains some of the most burdensome restrictions on Africans. It restricts the right of Africans to enter urban areas and authorises the Governor-General to make regulations for the registration of service contract passes, the refusal of admission into urban areas and the deportation of those who are in urban areas illegally. It is under these regulations that hundreds of Africans are regularly deported from the cities to platteland slave camps. The Urban Areas Act also contains the notorious Section 29, in terms of which any African may be brought before a magistrate without any charge being laid and required to prove that he is not "idle or dissolute".

(v) The Native Administration Act of 1927. This Act covers a number of subjects, such as the constitution of the Native Commissioner's Courts, but its most important provisions are those which confer powers on the Governor-General as "supreme chief". He has the power to make any law he pleases for "native areas", control the movements of Africans within such areas and issue regulations on a number of other subjects. This Act, together with the Urban Areas Act, establishes a virtual dictatorship by the Cabinet over all Africans.

(vi) The Representation of Natives Act 1936, which deprived the Africans of the Cape of the franchise which they had had on the same basis as the Coloured people and gave them their present communal franchise, by which they elect the three Native Representatives. This was stated by the Government to be a change for the better in the Africans' position, since they would now have their own M.P.'s to look after their interests. In fact it was not so, because the three Natives Representatives are always outvoted in Parliament, but under the old system every M.P. in the Cape Province had to concern himself to some extent with African opinion.

Simultaneously with this Act a number of laws were passed which were supposed to "solve the Native problem" for all time. Among these was the Native Trust and Land Act, which provided for a certain amount of land to be bought by the Native Trust for occupation by Africans. The total amount of land envisaged by this Act has still not been purchased. Other provisions of the Act which further restrict the rights of African labour tenants and squatters in "European areas" have been fully enforced.

(vii) The Industrial Conciliation Act of 1937 provides for the settlement of disputes between employees and workers and for the rights of trade unions, but "pass-bearing natives" are excluded from its provisions, and their rights receive no recognition.

(viii) Various War Measures originally passed by the Smuts Government during the war and supposed to be of a temporary nature have since been made permanent laws by the Nationalists. Among these is the proclamation which forbids meetings of more than twenty people on gold-proclaimed land. This law was passed in order to hamper the work of the African Mine Workers' Union and has been used for that purpose with considerable success.

(ix) The Nationalist Government has gone even further than previous governments did, especially with the Group Areas Act and the Suppression of Communism Act. The Group Areas Act is aimed mainly against the Indian and Coloured sections. It differs from all previous anti-Indian laws by giving the Government power to expel the Indians from land which they already occupy, whereas previous laws only prevented Indians from acquiring new land. The Group Areas Act is a very complicated law - there are six different kinds of area which the Minister can proclaim, and numerous exemptions and permits that he can issue. What it all amounts to is that the Minister can have anybody whom he dislikes expelled from his land.

The Bantu Authorities Act formally abolishes the Native Representative Council and provides for tribal councils as part of the intention of the Government to prevent the unity of the African people, turns the chiefs into real civil servants and withhold from the Africans truly democratic rights of self-government.

The Suppression of Communism Act empowers the Government to take repressive measures against the people's liberatory movements. The act defines "Communism" very widely, as can be seen from the fact that the leaders of the Defiance Campaign are at present being charged with "furthering the objects of Communism". If an organisation, an individual or a newspaper are, in the opinion of the Government, connected with Communism, drastic action can be taken against them. Organisations can be banned, and their members listed and subjected to restrictions. Newspapers can be banned, and individuals can be eliminated from political activity, prevented from travelling or attending meetings.

(x) The Separate Representation of Voters Act is an attempt to destroy the last remains of the non-European franchise. It provides that the coloured voters are to be removed from the ordinary roll and allowed to elect special "Coloured Representatives" to Parliament. The experience

of the Africans has shown that such representatives are completely useless and the Government has not tried to conceal the fact that their object is to deprive the Coloured people of all influence in political affairs.

As we mentioned above, Parliament has no right to deprive people of the vote on racial grounds unless a two-thirds majority of members agrees.

The Separate Representation of Voters Act was not passed by a two-thirds majority and was therefore declared invalid by the Supreme Court.

In an attempt to overcome the opposition of the courts, the Government passed the High Court of Parliament Act, which declared Parliament to be a court higher than the Supreme Court and permitted Parliament to overrule the judgment of the Supreme Court. The courts have now declared, however, that the High Court of Parliament Act is itself invalid, and it seems that the Coloured voters will still remain on the roll for the next election.

#### HOW THE LAWS ARE ENFORCED

Once the laws are passed by Parliament they have to be enforced. A whole machinery exists to enforce these laws - a whole army of civil servants, policemen, magistrates, native commissioners and soldiers. None of these people are ever elected by the voters, nor do they change with changes of government.

Behind Parliament, then, stands this body of men, armed with force to see that the laws are carried out. None of these bodies is impartial; none of them acts against the ruling class, because they are hired to enforce the rule of the ruling class.

For Africans there is a special body to enforce the law - the Native Affairs Department - standing as a weapon of the ruling class to impose its will on the African people in the same way as the police force.

All these bodies of men to enforce the law, together with the Government, its Cabinet, its Ministers, make up the machinery of oppression of the people which we call "The State".

oooOooo

**Collection Number: AD1812**

**RECORDS RELATING TO THE 'TREASON TRIAL' (REGINA vs F. ADAMS AND OTHERS ON CHARGE OF HIGH TREASON, ETC.), 1956 1961**

**TREASON TRIAL, 1956 1961**

***PUBLISHER:***

*Publisher:- Historical Papers, University of the Witwatersrand*

*Location:- Johannesburg*

*©2012*

***LEGAL NOTICES:***

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of the collection records and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a private collection deposited with Historical Papers at The University of the Witwatersrand.