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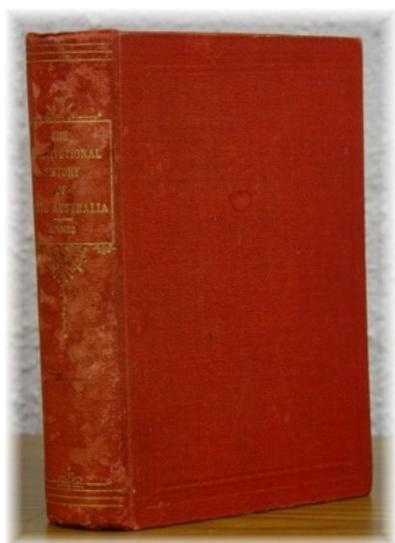
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THE  
CONSTITUTIONAL  
HISTORY OF SOUTH AUSTRALIA

*During Twenty-one Years,*

FROM THE  
FOUNDATION OF THE SETTLEMENT IN 1836  
TO THE  
INAUGURATION OF RESPONSIBLE GOVERNMENT IN 1857.

BY THE  
HONORABLE BOYLE TRAVERS FINNISS, J.P.

LATE COLONIAL SECRETARY OF THE PROVINCE,  
AND  
FIRST CHIEF SECRETARY  
UNDER RESPONSIBLE GOVERNMENT.

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1886.

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# THE CONSTITUTIONAL HISTORY OF SOUTH AUSTRALIA.

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Establishment of the colony of South Australia by Act of Parliament, in the year 1834, 4th and 5th William IV., c. 95.—First sales of land—First expedition from England in 1836—Arrival and installation of the Governor—First newspaper published by Mr. George Stevenson in 1837—Rule of Captain Hindmarsh, R.N.—Capital city selected by Colonel Light, Surveyor-General, and named “Adelaide”—Delays in the surveys—Disorganisation in the Civil Service—Cattle and sheep driven down the River Murray from the back settlements of New South Wales—Conflicts of the overlanders with the native tribes—Recall of Governor Hindmarsh—*Ad interim* Government of Mr. George Milner Stephen—Arrival of Colonel Gawler as Governor—Bushrangers from New South Wales—Expenditure of Colonel Gawler leads to his recall—His drafts on the British Treasury dishonored—Succeeded by Captain George Grey—Captain Grey appointed Governor of New Zealand—Major Robe, Governor.

THE first settlement of the British province of South Australia was authorised by an Act of Parliament passed in the year 1834, 4th and 5th William IV., c. 95.

This Act provided : That the entire proceeds of the sales of land in that portion of Australia should be devoted to transport laborers from the mother country to the chosen region ; that no convicts should at any time be sent to this favored colony ; and that a constitution should be granted to the inhabitants as soon as they numbered 50,000 souls.

and from his account I now quote as it appeared reprinted in the *South Australian Register* of January 5th, 1858, a paper which had then succeeded the journal edited by Mr. Stevenson.

“ARRIVAL AND INSTALLATION OF THE GOVERNOR.

“Since the month of March, 1836, vessels had been continually leaving England for our new colony. The *Rapid*, with Colonel Light, the Surveyor-General; the *Cygnets*, *Africaine*, and *Tam o' Shanter*, with the rest of the Surveyors, Mr. Gouger, the Colonial Secretary, Mr. Brown, the Emigration Agent, and a strong party of laborers; the South Australian Company's ships the *Duke of York*, *Lady Mary Pelham*, *Emma*, and *John Pirie*, with the Company's officers, servants, and stores had all arrived in safety, with the exception of the *Tam o' Shanter*, which met with an accident at the mouth of the harbor, the consequence of which, however, to the ship and cargo have not been so serious as at first they were expected to be.

“On the morning of December 24th H.M.S. *Buffalo* entered the magnificent harbor of Port Lincoln, and found the *Cygnets* at anchor in Spalding Cove. Captain Lipson, R.N., Naval Officer and Harbor-Master, came on board with a letter from Colonel Light, the Surveyor-General, to His Excellency the Governor, announcing the most desirable location of our metropolis to be on the eastern side of the Gulf St. Vincent, at the same time encouraging us with a most glowing description of that portion of the

A spirit of independence had already been aroused in South Australia by the attempts of Governor Robe to legislate for the collection of royalties on minerals, and also in matters of religion. His administrative proceedings, however, though they made him the subject of much odium and unpopularity, tended to the benefit of others, firstly by awaking men to a sense of their political rights, and next by moving the Home authorities to reconsider the subject of the land revenues in the Australian colonies generally, at a time when the gold discoveries had increased the importance of these colonies, and rendered it obvious that it was impossible to rule such distant possessions from Downing-street when emergencies might arise requiring immediate action. It must be recollected, the average duration of the voyage by the mail ships from England to Adelaide was, even so late as the year 1857, nearly sixty-six days, whilst at the period under consideration it was much longer. These circumstances taken together afford a sufficient explanation of the liberal views which were beginning to work towards the independence of colonies which prior to the opening of the Suez route were practically at a distance from the seat of rule of nearly 16,000 miles. Physical causes then, in themselves, separately, uncontrollable, produced moral effects which, acting on many different minds, brought experiences into play that resulted in complete political freedom through the instrumentality of Sir Henry Young and his advisers,

Governor of a Crown Colony to an immediate close when so much additional matter remained to be recorded. The proceedings of the Legislative Council had terminated, as regarded the new Constitution, early in the month of January; and a struggle between the Governor and the House had commenced, the result of which it was easy to foresee. The Governor was pitted against the Estimates Committee, to use the language of the daily press, although that expression was so displeasing to him that he directed the Colonial Secretary to correct the impression, by assuring the House that the members of the Government had their full share of responsibility along with the Governor. It was a usual course of action with Sir Richard, to claim all power for himself with the credit of success, and to call in the aid of his official advisers in case of failure, though their consent to his measures was not deemed needful, or heeded, in the impetuosity of his energetic impulses. The powers of Government were in a transition state; and had the Governor been a man of a different character he would have acted under that persuasion, and have taken the elective members into his confidence openly and legitimately, and thus have softened the asperity of the conflict in which he engaged by a conciliatory toning down of his existing prerogative rights. His continual intervention in matters before the Legislative Council, as though he were still its President, rendered the position of his first ministry difficult and precarious, since the

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Governor proposes to visit Melbourne to confer with the Governors of the neighboring colonies—The Ministry do not advise the Governor to leave the colony in any official capacity—Governor consults the members of the Cabinet, separately—Remonstrance of Chief Secretary against the system—Governor writes despatches to Secretary of State proposing an increase in the Executive Council—Ministry object—Chief Secretary writes protesting against alteration in the Royal Commission, suggested by the Governor, and in the proposal to increase the numbers of the Executive Council through exercise of the Royal Prerogative—Weakness of the Ministry through the opposition of the Governor and of the Parliament.

IN this chapter I shall continue, and I hope to bring to a close, the adjustment of the relations between the Governor-in-Chief, Sir Richard Graves MacDonnell, and his first Ministry under Responsible Government. Differences of opinion had arisen on two important questions of colonial policy, namely, the collection of duties of customs on goods waterborne on the River Murray, and destined for consumption in the neighboring colonies of New South Wales and Victoria, and the ocean postal service between Great Britain and South Australia. The reader cannot have failed to perceive that on both these questions the views of the Ministry were at variance with those of the Governor. The ultimate decision lay with the House of Assembly, and the verdict did not support the Government. It was

Again the Governor writes under date July 31st:—

“My dear Sir—Don't forget to let me have a duplicate and triplicate of your memorandum on the proposed alterations in the Royal Instructions, as I fear we shall be greatly hurried in my office.—Yours truly,

“(Signed) RICHARD GRAVES MACDONNELL.”

Again Sir Richard writes:—

“Government House, August 4th.

“My dear Sir—I find the despatches about the alterations of the Governor's Commission and Instructions were forwarded by Mr. Torrens to you. I am very anxious that they should pass through the hands of the members of Executive Council as speedily as possible, for there will be difficulty to have them revised and copied for next Saturday's mail. I may mention that I have not received the duplicate and triplicate of your memorandum on those despatches.

“(Signed) RICHARD GRAVES MACDONNELL.”

“The Honorable B. T. Finniss.”

In reply to these notes, and to the despatches of Sir Richard MacDonnell to the Secretary of State, the Chief Secretary wrote as follows:—

“Chief Secretary's Office, Adelaide, July 28th, 1857.

“Sir—I have been honored with a perusal of the draft despatches of your Excellency dated, respectively, July 17th and July 20th, instant, on the subject of certain alterations suggested to the Secretary of State in the constitution of the Executive Council, and in the mode by which the government of the colony should be administered in the event of the death or absence of the Governor-in-Chief. It is my desire that this letter should be regarded as my protest against any alteration in the Royal Commission or Instructions on the principles recommended by your Excellency, and I accordingly have the honor to request that copies may be transmitted to the Secretary of State as enclosures to those despatches. My reasons for dissenting from the course advised by your Excellency, and to some extent concurred in by the other members of the Executive Council, are briefly these:—With respect to any increase in the Executive Council, it is to be observed that no addition to the number of official and responsible advisers of the Governor, who are designated in the Constitution Act as the persons holding the offices of Chief Secretary, Attorney-General, Treasurer, Commissioner of Crown Lands and Immigration, and Commissioner of Public Works, can be made without an Act of the Parliament of South Australia. Although it may hereafter prove desirable,

40. It shall not be lawful for either House of the said Parliament to pass any vote, resolution, or bill, for the appropriation of any part of the revenue, or of any tax, rate, duty, or impost, for any purpose which shall not have been first recommended by the Governor to the said House of Assembly during the session in which such vote, resolution, or bill shall be passed.
41. This Act shall be published in South Australia by the Governor of the said Province, within three months after Her Majesty's approval of the same shall have been received, by proclamation for that purpose in the *South Australian Government Gazette*, and shall commence and take effect from the day of the date of such proclamation.
42. Anything herein contained to the contrary notwithstanding the Legislative Council now subsisting shall continue and exist until the issue of the first writs for the election of members of the Parliament hereby constituted.
43. In referring to this Act, it shall be sufficient to make use of the expression "The Constitution Act."

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Salary of Governor	...	...	...	£4,000	0	0
Salary of First Judge	...	...	...	1,500	0	0
Salary of Second Judge	...	...	...	1,300	0	0
Salary of Attorney-General	...	...	...	1,000	0	0
Salary of Crown Solicitor and Public Prosecutor	...	...	...	600	0	0

PART II.

Salary of Chief Secretary	...	...	...	£1,300	0	0
Salary of Under Secretary	...	...	...	600	0	0
Salary of Treasurer	...	...	...	900	0	0
Salary of Auditor-General	...	...	...	700	0	0
Salary of Commissioner of Lands and Immigration...	...	...	...	800	0	0
Salary of Commissioner of Public Works	...	...	...	800	0	0

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SCHEDULE B.

*Retiring allowance on loss of office.*

Boyle Travers Finnis, Colonial Secretary	...	...	...	£425	0	0
Richard Davies Hanson, Advocate-General	...	...	...	375	0	0
Robert Richard Torrens, Colonial Treasurer	...	...	...	325	0	0
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  - › what churches were there and what time were services held?
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