

BC579 THE DONALD BARKLY MOLTENO PAPERS

BIOGRAPHICAL NOTE

Donald Barkly Molteno (1908-1972), grandson of Sir John Molteno, was born at Wynberg, Cape and educated at the Diocesan College, Rondebosch and Cambridge University, where he graduated with Honours in Law in 1930. He was called to the English Bar at the Inner Temple the same year. After practising for a while in London, he returned to South Africa and was admitted as an advocate to the Bar of the Cape Provincial Division of the Supreme Court of South Africa in 1932. He practised at the Cape Bar until 1964, being made Q.C. in 1952, and President of the Cape Bar Council from 1961 to 1963. He represented Africans in the House of Assembly as M.P. for Cape Western from 1937 to 1948. Molteno played a leading role in organizations such as the Cape Joint Council of Europeans and Bantu, Cafda and the Civil Rights League. He was associated with the South African Institute of Race Relations from 1936, when he was appointed its first regional representative in the Western Cape, and later became president from 1958 to 1960. He was chairman of the Liberal Party's constitutional committee, and after joining the Progressive Party became chairman of the commission which advised it on constitutional policy. Molteno was one of the Counsel engaged in each of the important constitutional cases questioning the powers of the Union Parliament after the passing of the Statute of Westminster in 1931. He was a member of the University of Cape Town Council from 1951 to 1960, and a part-time lecturer in Constitutional and Administrative Law. From 1964 he lectured fulltime in the Department of Roman Dutch Law and in 1967 was appointed Professor of the newly created Department of Public Law. He was Dean of the Faculty of Law from 1970 to 1972, and died in 1972 after a long illness.

THE COLLECTION

The D.B. Molteno Papers were presented to the University of Cape Town Libraries in 1972 by Mrs Molly Molteno, and number ca 22 138 items. The collection consists of documents relating to Molteno's political and legal career, and reflects his interest in organizations such as the South African Institute of Race Relations, Cafda and the Progressive Party. Reflecting his political career are the Constituency files which contain almost 12,000 items. These are an alphabetical arrangement of files by district containing correspondence dealing with the problems of Molteno's constituents such as employment, taxation, housing, voting etc. The Parliamentary files (2 450 items) contain mainly mimeographed documents, pamphlets, articles etc relating to political issues, government native policy and the social and economic conditions of Blacks. These were Molteno's working files and are arranged by subject, thereby indicating his main interests while Native Representative. All correspondence other than that in the Constituency files is kept together in Section C. Another important section is the Constitutional section, G, which contains documents relating to every stage of the important legal battles fought over the African and Coloured vote, during 1936 and the 1950s. There is also a large section of legal material consisting of opinions, appeals etc showing the extremely varied nature of Molteno's legal career. Other material in the collection comprises articles, newspaper clippings and a small section on the University of Cape Town. Several people were involved in the initial sorting of the collection, but the major sorting and

numbering was done by Tim Keegan in 1976. Leonie Twentyman Jones completed the sorting and edited the final list. There are no restrictions on the use of the collection, but permission should first be obtained from the University Librarian.

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Α
             CONSTITUENCY FILES, 1937-1948
A1.1-A1.236 Aberdeen
A2.1-A2.51
             Athlone
A3.1-A3.123 Barkley West
A4.1-A4.246 Beaufort West
A5.1-A5.306 Bellville
A6.1-A6.34
             Burghersdorp
A7.1-A7.2464 Cape Town (incl. Walmer Estate and Kensington)
A8.1-A8.11
             Carnarvon
A9.1-A9.138 Colesburg
A10.1-A10.209
                      Cradock
                      De Aar
A11.1-A11.415
                      Douglas (incl. Schmidtsdrift)
A12.1-A12.163
                      George (incl. Oudtshoorn, Rosemead, Mossel Bay)
A13.1-A13.498
A14.1-A14.388
A15.1-A15.3 Graaff Reinet (incl. Sackcloth) Hanover
A16.1-A16.7 Higgs Hope
A17.1-A17.15 Hopefield (incl. Saldanha)
A18.1-A18.24 Humansdorp
A19.1-A19.12 Jansenville
A20.1-A20.1110
                      Kimberley (incl. Beaconsfield and Postmasberg)
A21.1-A21.6 Klawer
A22.1-A22.75 Klipplaat
A23.1-A23.5 Kuruman
A24.1-A24.1227
                      Langa
A25.1-A25.580
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A26.1--A26.27
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A27.1-A27.257
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A28.1-A28.48 Murraysburg
A29.1-A29.29 Naauwpoort
A30.1-A30.4 Namagualand
A31.1-A31.185
                      Nyanga
A32.1-A32.55 Paarl
A33.1-A33.127
                      Pearston
A34.1-A34.18 Piquetberg (incl. Malmesbury)
A35.1-A35.83 Prieska (incl. Ashton)
A36.1-A36.40 Prince Albert
A37.1-A37.73 Richmond
A38.1-A38.3 Robertson
A39.1-A39.145
                      Simonstown
A40.1-A40.44 Somerset East
A41.1-A41.42 Somerset West
A42.1-A42.69 Stellenbosch
A43.1-A43.41 Steynsburg
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A44.1-A44.7 Steytlerville

A45.1-A45.9 Strydenburg

A46.1-A46.224 Taungs

A47.1-A47.5 Tarkastad

A48.1-A48.247 Upington (incl. Kakamas, Hondeklipbaai)

A49.1-A49.588 Vryburg (incl. Tigerkloof, Ganspan)

A50.1-A50.7 Willowmore

A51.1-A51.392 Worcester (incl. Touws River, Ceres)

A52.1-A52.663 Wynberg (incl. Rondebosch, Newlands, Claremont, Kenilworth, Retreat

A53.1-A53.43 Tour file A54.1-A54.69 Elections

B PARLIAMENTARY FILES, 1937-1948

B1.1-B1.154 Wages

B2.1-B2.4 Convict labour B3.1-B3.7 Farm labour

B4.1-B4.104 Conditions of labour

B5.1-B5.100 Education

B6.1-B6.52 Administration (Justice and Public Service)

B7.1-B7.43 Industrial relations
B8.1-B8.83 Land and reserves

B9.1-B9.59 Urban areas - pass laws B10.1-B10.43 Urban areas - memoranda

B11.1-B11.86 Urban areas - conditions

B12.1-B12.31 Urban areas - location regulations

B13.1-B13.12.2 Urban areas - Cape Town City Council Housing schemes

B14.1-B14.36 Urban areas - housing

B15.1-B15.7 Urban areas - Location Advisory Boards Congress

B16.1-B16.12 B17.1-B17.15

B18 Urban Areas Act

Civil liberties

Defence

B18.1-B18.3 Recruitment

B18.4-B18.46. Pay

B18.47-B18.89 Pensions

B18.90-B18.135 Springbok Legion etc.
B18.136-B18.229 Demobilization, 1941-1948

B19.1-B19.252 Social services
B20.1-B20.99.1 Health and nutrition

B21.1-B21.164 Railways and Harbours

B22.1-B22.20 Miners' pthisis

B23.1-B23.42 Mine wages and conditions

B24.1-B24.3 Co-operatives

B25.1-B25.67 'Native Beer'

B26.1-B26.121 Marketing and agriculture

B27.1-B27.48 Taxation, finance and economics

B28.1-B28.67 Political

B28.68-B28.91		Native Representative Council
B28.92-B28.112		Political articles by others
B28.92	Crewe, London,	Sir C. "Dispatch" articles on the political situation in South Africa. East
B28.93	Callawa	y, Rev. G. The Native problem in South Africa and its challenge to
D20 04 D20 0		nity, with a postscript. Oxford, 1927
B28.94-B28.94.1 Thema.		Jones, J.D. Rheinallt. Cape Franchise and Bantu Status. R.V. S elope In defence of the Cape Native franchise. Lovedale, 1928
B28.95-828.9		Rose-Innes, Sir J. The Native franchise question. Speech read at opening of Non-Racial Franchise Association. Cape Town, 1929
B28.96	Jagger,	J.W. and Sir C. Tredgold. The Native, franchise question. Cape Town, 1930
B28.97-B28.9	97.1	Burton, H. The Native franchise question. Cape Town, 1930
B28.98-B28.9	98.2 1930	Bennie, W.G. Native education in relation to the franchise. Cape Town,
B28.99B28.		Native disabilities in the Union of South Africa; speeches delivered by Sir
	J. Rose-	-Innes [and.ottiers]' C -,a Town, 1931
B28.100	Rose-In	nes, Sir J. The clash between old and new. Cape Town, 1931
B28.101	Jabavu,	D.D.T. "Native disabilities" in South Africa. Lovedale, 1932
B28.102	Coventr	y, Rev. H.B. The ethics of Native policy. Cape Town, [1933?]
B28.103-B28	.103.1	Rose-Innes, Sir J. Union Native policy. Cape Town, 1934
B28.104	Russell, [1935?]	W.A. European, versus Bantu in the Union of South Africa. Cape Town,
B28.105	The Nat	ive Trust and Land Bill: some constructive criticisms. Cape Town, 1936
B28.106-B28	.106.1	Walker, E.A. The Cape Native franchise. Cape Town, 1936
B28.107-B28	.107.1	The Representation of Natives Bill. Should the Cape Native vote go?
B28.108		, G.H. The Report of the Native Affairs Commission, 1936. A reply to the appearing; in the South African outlook. Cape Town, 1938
B28.109	The Rep	port of the Native Affairs Commission, 1936. Notes and comments on Mr Nicholls' reply to the South African outlook. Lovedale, 1938
B28.110		port of the Native Affairs Commission, 1936. An analysis and criticism by the
	-	tlook. A reply by G.H. Nicholls. Notes and comments on Mr Nicholls ' reply.
B28.111		W.G.A. The educated Native in Bantu communal life. London, [1939?]
B28.112		frica. Report of the Native Affairs Commission, 19391940. U.G. 42-194
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		u Allalis
B30.1-B30.25 B31.1-B31.24		a vertice a
Select Committee on Delegated Powers		
B32	Foreign	
B32.1-B32.28 General		
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С	EXTRA	A-CONSTITUENCY AND GENERAL CORRESPONDENCE, 1937-1972
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C2

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C2.1-C2.268 General C2.269-C2.359 Election of Native Representatives, 1942(many spoilt documents) C3.1-C3.265 1944 C4.1-C4.189 1945 C5.1-C5.185 1946 C6.1-C6.237 1947-48 C7.1-C7.17 Overseas correspondence, 1938--1945 C8.1-C8.241 General correspondence, 1948-1972 C9.1-C9.36 Black Sash correspondence, -1956-1968 C10.1-C10.17.2 Correspondence with Sir Keith Hanock re Smuts biography C11.1-C11.76 Progressive Party correspondence, 1960-1972 C12.1-C12.19 Correspondence re Rhodesian constitutional developments, 1965-67 C13.1-C13.45 South African Institute of Race Relations correspondence, 1957-70 C14.1-C14.28 Sprocas correspondence 1969-1972 C15 Correspondence re theses, 1967-69 C.15.1-C15.11 Suttner thesis C15.12-C15.25 Crawford thesis C16.1-C16.13 Personal correspondence, 1967 D ARTICLES, PERSONAL MEMORANDA etc. pre 1948 D1 General articles D1.I-D1.1.5 Native representatives D1.2-D1.33 Black social and economic conditions, segregation D1.34-D1.38.1 Britain, the War, U.S.S.R. **United Nations** D1.39-D1.42.1 D1.43-D1.46 Book reviews, press statement re not seeking re-election 1948, etc. D2 Regular articles, 1946-1948 D2.1-D2.2 Parliamentary Review D2.3-D2.8 In Parliament D2.9-D2.28 Political commentary D2.29 W.P. Regional Letter D2.30-D2.78 The week in Parliament, 1940-44 D3 Miscellaneous notes D3.1-D3.28 Notes and speeches D3.29-D3.38 Notes on Bills and Commissions etc. D3.39-D3.84 Quotations Ε **ORGANIZATIONS** E1 "Liberal" Organizations E1.1-E1.4 Libertas League E1.5 Freedom League New Social Order Movement E1.6 E1.7-E1.17 Civil Liberties Council E1.18-E1.21 Democratic League E1.22-E1.24 Fabian Society E1.25-E1.26 Liberal Association

E1.27-E1.32 Campaign for Right and Justice

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E1.35-E1.36 Civil Rights League				
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E1.44-EI.134 Friends of Africa				
El.135-E1.147	Black Sash - constitution, annual reports etc			
E1.148-E1.16	Black Sash magazine, June 1959-June 1971 (incomplete)			
E2	Welfare Organizations			
E2.1-E2.4	Bantu Welfare Trust			
E2.5	National Council for Child Welfare			
E2.6	Cape Health Community			
E2.7	Citizens' dousing League			
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E3.1	Chinese Association of South Africa			
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E5.37-E5.56 South African Institute of International Affairs E6 Legal Aid E6.1-E6.5 Cape Town Legal Aid Bureau E6.6-E6.8 Defence and Aid Fund E6.9 National Institute for Crime Prevention and the Rehabilitation of Offenders E6.10-E6.90 Athlone Advice Office Reports 1962-1972 Academic and Student Organizations and Institutions **E7** E7.1-E7.2 Sabra E7.3 Potchefstroom University Centre for International Politics Abe Bailey Institute for Inter-racial Studies E7.4-E7.8 E7.9-E7.12 **NUSAS** E7.13 South African Students' Organization E7.14-E7.28 Universities incl. Society of University Teachers of Law and University Teachers Association of South Africa E8 **Church Bodies** E8.1 Kolbe Continuation Committee of South African Churches E8.2-E8.4 World Council of Churches E8.5-E8.6 Christian Council of South Africa E8.7 E8.8 Mindolo Consultation E8.9-E8.11 Christian Institute E8.12 Afrikaanse Calvinistiese Beweging E8.13 Wilgespruit Consultation Nederduitse Gereformeerde Kerke E8.14 E8.15 Catholic Church E9 Sprocas E9.1-E9.31.2 Sprocas General E9.32-E9.38.2 **Sprocas Church Commission** E9.39-E9.52 Sprocas Economics Commission. E9.53-E9.62 Sprocas Education Commission E9.63-E9.80 Sprocas Legal Commission E9.81-E9.113 Sprocas Political Commission E9.114-E9.137 Sprocas Social Commission. E10 Other Organizations E10.1-E10.2 South African Trades and Labour Council E10.3 African Information and Service Agency E10.4 Housewives' League E10.5-E10.6 Cape Parliamentary Debating-Society E10.7-E10.11 Pilot Project Basutoland E10.12 South African Public Library E10.13 Teachers Association. E10.14 Folio Society E10.15-E10.16 Institute of Citizenship' E10.17-E10.20 Institute of Administrators of Non-European Affairs E10.21-E10.26 General Bar Council of SA E10.27 Cape Town Medico-legal Society

F1 **Opinions** F1.1-F1.274 General F1.275-F1.437 Wills and Estates F1.438-F1.710 Statutes F2 Arguments F2.1-F2.150 Manuscript arguments Typescript arguments F2.151-F2.312 F3.1-F3.290 Pleadings F4 **Appeals** F4.1 J.A. Brikkels v. Minister of the Interior 18.5.1956. (Coloured vote) F4.2 P. Madevu v. The State. 31.3.1966 F4.3 J. Ngwevela v. Regina. 23.6.1953. (Suppression of Communism Act) F4.4.1-F4.4.10 M. Xala v. The State. 30.8.1967 F5 **Judgements** F5.1-F5.15 Criminal judgements F5.16-F5.17 Other F6.1.1-F6.1.181 Abdulhaq Kajee case F6.2.1-F6.2.66 Cases for Natal Indian Congress F7 Legal articles by D.B. Molteno F7.1 Apartheid and the separation of the races in South Africa. TS The "B.O.S.S. Act" TSS F7.2 Commonwealth immigration into the United Kingdom and civil rights. TSS F7.3 F7.4 Democracy in Africa. TS Judicial precedent. MS F7.5 F7.6 The laws relating to influx control. Roneod F7.7 Memorandum on constitutional reform. Roneod F7.8 The rule of law. (Progressive Forum). MS F7.9-F7.9.8 The rules behind the rule of law. TSS and various printed versions F7.10 "Separate freedom" for black and white. TS F7.11 South Africa and the Universal Declaration of Human Rights. TSS F7.12 Self-government for the Transkei. TSS F7.13 A surprising decision. TS F7.14 Today and tomorrow. TS F7.15 Treason, Revolution and Judges. MS F7.16-F7.16.2 The twilight of South African liberty. Roneod F8 Legal books, pamphlets and journals F8.1 Beveridge, W.H. Full employment in a free society. London: Allen and Unwin, 1944 F8.2 Commonwealth Parliamentary Conference. Wellington, N.Z., 1950. Report of proceedings F8.3 Great Britain. Committee on Legal Aid and Legal Advice in England and Wales. Report. Cmd 6641. London: H.M.S.O., 1945 Holland. Outline of Mr Holland's lectures on personal property. Cambridge U.P., F8.4 Lewin, J. The conflict of Native law and common law in South Africa. Reprint from: F8.5 South African Law Journal, Nov. 1941 F8.6 Lewin, J. Studies in African Native law. Cape Town: African Bookman, 1947

F8.8 Nunes, K. and F.R. Tinsley. A comparative view of the South African law of associations (with special reference to unincorporated non-profit associations.) F8.9 Race Relations Law Reporter, v.1, no.3, June 1956 F8.10 Society of Labour Lawyers. Justice for all. London: Fabian Society, 1968 F8.11 Society of Public Teachers of Law. Directory of members. London: Butterworth, 1972 F8.12 South African Bar. General Council. Delegated authority: a memorandum. [ca. 1950?] F8.13 South African Law Reports, 4, 1972 F8.14 Suttner,, R.S. Legal pluralism in South Africa. Reprint from: International and Comparative. Law Quarterly, Jan. 1970 F8.15-F8.19 Dr Winfield's lectures. Law of torts, 1-5 F9.1-F9.8 Book reviews by D.B. Molteno Other legal documents F10.1 Rules of the Supreme Court of South Africa F10.2 Law Revision Committee. 13th report F10.3 Bechuanaland Protectorate: draft criminal code F10.4-F10.21 Petition etc in the matter between Frans Rasimphi Sibasa and Lucas Ratsialingwa [and others] 1.5.1942 F10.22-F10.22+F10.22 F10.22-F10.22 Other Group Areas Act, 1957, with amendments G CONSTITUTIONAL PAPERS G1-G4 South African Constitutional Test Cases, 1936-1956 G1.1-G1.8.1 Ndlwana v. Minister of the Interior, 1936. (African Vote Case). Includes notes, heads of argument, record on appeal Harris v. Minister of the Interior, 1952. (Coloured Vote Case) G2.1.1-G2.2.5 Respondents' Heads of Argument G2.2.1-G.2.2.5 Respondents' Heads of Argument G2.3.1-G2.3.28 Opinions; memoranda, etc. 1948-1951 G2.5.1-G2.5.23 Opinions; memoranda and judgement, 1952 G2.6.1-G2.6.15 Notes etc re Coloured Vote Case and High Court of Parliament Case Minister of the Interior v. Harris, 1952. (High Court of Parliament Case) G3.1-G3.10 Heads of Argument, 1956 (Senate Act Case) G4.1.1-G4.1.9 Applicants' Heads of Argument G4.2.1.6.4.1.9 Applicants' Heads of Argument	F8.7	Mill, J.S. Utilitarianism; liberty; representative government. London: Dent, 1910 repr.		
associations (with special reference to unincorporated non-profit associations.) F8.9 Race Relations Law Reporter, v.1, no.3, June 1956 F8.10 Society of Labour Lawyers, Justice for all. London: Fabian Society, 1968 F8.11 Society of Public Teachers of Law. Directory of members. London: Butterworth, 1972 F8.12 South African Bar. General Council. Delegated authority: a memorandum. [ca. 1950?] F8.13 South African Law Reports, 4, 1972 F8.14 Suttner, R.S. Legal pluralism in South Africa. Reprint from: International and Comparative. Law Quarterly, Jan. 1970 F8.15-F8.19 Dr Winfield's lectures. Law of torts, 1-5 F9.1-F9.8 Book reviews by D.B. Molteno T0 Other legal documents F10.1 Rules of the Supreme Court of South Africa F10.2 Law Revision Committee. 13th report F10.3 Bechuanaland Protectorate: draft criminal code F10.4-F10.21 Petition etc in the matter between Frans Rasimphi Sibasa and Lucas Ratsialingwa [and others] 1.5.1942 F10.22-F10.24 Other F11 Group Areas Act, 1957, with amendments G CONSTITUTIONAL PAPERS G1-G4 South African Constitutional Test Cases, 1936-1956 G1.1-G1.8.1 Ndlwana v. Minister of the Interior, 1936. (African Vote Case). Includes notes, heads of argument, record on appeal G2 Harris v. Minister of the Interior; 1952. (Coloured Vote Case) G2.1.1-G2.1.10 Applicants' Heads of Argument G2.2.1-G2.2.5 Respondents' Heads of Argument G2.3.1-G2.3.28 Opinions; memoranda, etc. 1948-1951 G2.4 Record on appeal, 26.10.51 G2.5.1-G2.5.23 Opinions, memoranda and judgement, 1952 G2.6.1-G2.6.15 Notes etc re Coloured Vote Case and High Court of Parliament Case G3.1-G3.10 Heads of argument, notes, judgements G4 Collins v. Minister of the Interior, 1956. (Senate Act Case) G4.1.1-G4.1.9 Applicants' Heads of Argument	F8.8			
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