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A REAPPRAISAL OF THE GOVERNORSHIP OF SIR BENJAMIN D'URBAN  
AT THE CAPE OF GOOD HOPE, 1834-1838

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The candidate would like to express his appreciation  
to the Ernest Oppenheimer Memorial Trust whose  
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## PREFACE

Sir Benjamin D'Urban only spent four years as Governor of the Cape Colony, yet to many people he is one of the most easily identifiable of all British Governors. The principal reason for this, it seems, is the continuing emphasis placed upon his short-lived settlement of the Colony's troublesome eastern frontier in 1835.

The main objectives of this thesis have been to examine some of the most notable analyses of that settlement together with an attempt to remove D'Urban's governorship from the narrow and controversial confines imposed by his frontier policy. I have tried to place his governorship in the wider context of his day, examining the various controls upon him, and his overall role as Governor together with some of his administration's less well known but ultimately equally important aspects. In effect, I have tried to view D'Urban in 'the round'. The thesis makes no pretence at being a complete survey. Several important and possibly contributory aspects to a fuller understanding of D'Urban's Cape interlude - notably his ten years in various executive positions in the West Indies and British Guiana, and his period as commander-in-chief of the British army in Canada - were beyond the reach of anything more than a cursory review. Presumably there are documents relative to this period of D'Urban's life in the Archives in Montreal, Georgetown and London.

D'Urban's reputation in South Africa continues to rest upon the short-lived system he established in 1835 and the great promise for future relations between black and white that many authors then and since saw in it, or alternately failed to see in it. With this in mind, and the realisation that 145 years and a succession of Governors, High Commissioners and Prime Ministers have passed since 1835, the following extract from the front page of The Daily Dispatch of 10 May, 1980, is revealing. It was reported that the Ciskei government demanded "all the land between the Kei and Fish Rivers, the Indian Ocean and the Stormberg Mountains to form the territory of an independent Ciskei."

The fundamental questions of to whom the land belongs and of how to establish a just modus vivendi with the Xhosa, which plagued both D'Urban's short administration and the Colonial Office for much of the Nineteenth Century are still with us today. Any analysis of his four year period as Governor of the Cape must necessarily be tempered by this realisation.

## ACKNOWLEDGEMENTS

Although the final printed and bound thesis bears my name, its inspiration, initiation, continuation and completion owe much to a large group of people.

In particular I would like to extend my sincere thanks to Professor T.R.H. Davenport for his early encouragement to do this thesis; the staff of the Cape Archives and the South African Public Library in Cape Town, and the Albany Museum Archives in Grahamstown; and especially the staff of the Cory Library in Grahamstown - Mike Berning, Sandy Fold, Melanie Webb and Jackson Vena - for many kindnesses, not the least of which were finding obscure documents, the loan of a tape recorder and the cultivation of an appreciation for Gilbert and Sullivan.

My greatest debt is to my supervisor, Professor K.S. Hunt who allowed the greatest freedom while at the same time restraining my hastier judgements. His many kindnesses, unflagging interest and support made the process of researching and writing the thesis a thoroughly enjoyable one.

I am very grateful to Richard Czujko of Pretoria, Kevin Martindale of Cape Town and Mervyn Wetmore of Grahamstown for their extended hospitality and assistance in times of need.

Richard Bouch provided valuable information on how to draw maps, as did Jeffrey Peires on the rigours and approach to gathering oral evidence. Felicia Stoch in Cape Town unwearingly tracked down documents I had overlooked in the Archives and later found to be urgently necessary. For this I am indebted. Alcott Blaauw assisted with oral evidence and provided some interesting insights into Xhosa history.

I would also like to acknowledge the kindness of Chief Lent Maqoma, Ciskeian Minister of the Interior, and his two Jingqi Councillors, Mr Wilson Ximiya and Mr Anderton Bikitsha Mfafa for allowing me to interview them, particularly at a time when the Ciskeian Parliament was in session and the calls upon their time were many. Mr Mfafa also kindly undertook to answer some further questions of mine through the post.

To my colleagues in Cory Library - Alastair Brown, Melanie Gibbens, Mandy Goedhals and Rose-Mary Sellick - I owe a special

thanks for their cheerful criticism, good humour and optimism. Mrs Wells undertook the monumental task of typing the thesis with unflinching patience and consideration.

I would also like to acknowledge the generous financial assistance of the Ernest Oppenheimer Memorial Trust and Rhodes University. The conclusions reached in this thesis do not necessarily reflect their opinions.

Finally, I would like to dedicate this thesis to my parents, whose ceaseless support has made everything possible.

## ABBREVIATIONS USED IN FOOTNOTES

Apart from the usual abbreviations like vol. and op.cit., the following abbreviations have been used.

- |                           |   |  |
|---------------------------|---|--|
| A519                      | - | The accession number of the D'Urban Collection in the Cape Archives.   |
| A.M.A.                    | - | Albany Museum Archives.  |
| A.N.N.                    | - | <u>Africana Notes and News.</u>  |
| A.Y.B.                    | - | <u>Archives Year Book for South African History.</u>   |
| C.A.                      | - | Cape Archives, Queen Victoria Street, Cape Town.   |
| C.H.B.E.                  | - | <u>Cambridge History of the British Empire.</u>  |
| C.G.H.B.B.                | - | Cape of Good Hope Blue Book, a list of statistical information, office holders and related miscellany produced annually by the Colonial Government for the information of the Colonial Office. |
| C.L.                      | - | Cory Library for Historical Research, Rhodes University, Grahamstown.  |
| Cory, Vol. II, III, etc.  | - | G.E. Cory, <u>The Rise of South Africa</u> , Vol. II, III, etc.  |
| D.N.B.                    | - | <u>Dictionary of National Biography.</u>   |
| D.S.A.B.                  | - | <u>Dictionary of South African Biography.</u>  |
| D.S.A.E.                  | - | <u>Dictionary of South African English.</u>  |
| Ex. Co., I.               | - | Minutes of the Executive Council of the Cape of Good Hope, Vol. I.   |
| G.H.                      | - | Archives of the Governor of the Cape of Good Hope, originally kept at Government House, Cape Town, but now retained in the Cape Archives.  |
| G.T.J.                    | - | <u>The Graham's Town Journal.</u>  |
| J.A.H.                    | - | <u>Journal of African History.</u>   |
| Leg. Co., I.              | - | Minutes of the Legislative Council of the Cape of Good Hope, Vol. I.   |
| L.M.S.                    | - | London Missionary Society.   |
| O.H.S.A.                  | - | <u>Oxford History of South Africa.</u>   |
| P.P.                      | - | British Parliamentary Papers.  |
| R.C.C.                    | - | G. McC. Theal, <u>Records of the Cape Colony.</u>  |
| S.A.C.A.                  | - | <u>South African Commercial Advertiser.</u>  |
| S.A.P.L.                  | - | South African Public Library, Queen Victoria Street, Cape Town.  |
| S.A.H.J.                  | - | <u>South African Historical Journal.</u>   |
| Theal, Vol. II, III, etc. | - | G. McC. Theal, <u>History of South Africa since 1795</u> , Vol. II, III, etc.  |
| Z.A.                      | - | <u>De Zuid-Afrikaan.</u>   |

## NOTE ON NOMENCLATURE

Racial nomenclature in southern Africa is under continual revision. Except where quoting directly from original sources, I have tried to follow the most modern and academically accepted usage and spelling. The same procedure has been adopted with regard to the names of rivers and mountain ranges.

## NOTE ON ORAL EVIDENCE

The use of oral evidence has been limited, both by the time and expense necessarily involved in its collection, and particularly by the fact that the main thrust of this thesis has been more concerned with the well-documented aspects of the Colony's constitutional and social development, and the development, strengths and weaknesses of D'Urban's administration, than with any detailed analysis of black-white relations. Oral evidence has thus been used to emphasize various points, such as the significance of the Tyhumie Valley to the Xhosa people, and the Colonial government's ignorance of that significance, and to indicate that points of view, other than those documented in the Colony or by the British government, exist.

I have relied on two sources for my oral evidence. The first is Chief Lent Maqoma, Ciskeian Minister of the Interior, and his two Jingqi Councillors, Mr Wilson Ximiya and Mr Anderton Bikitsha Mfafa. Mr Mfafa was introduced as being particularly knowledgeable, and proved himself worthy of that description.

Although Chief Maqoma made it clear he was no historian in either the traditional or western senses of the word, he is the great grandson of Chief Jongumsobomvu Maqoma who featured prominently on the frontier during D'Urban's governorship, and had heard the traditions from his father's people. At the interview with him at Zwelitsha, near King Williams Town, on 7 May, 1980, he proved an interesting and informed speaker.

The second source was Mr Alcott Blaauw. A brief field trip in search of oral evidence had been planned to the Willowvale area of the Transkei in the last week of March, 1980. The expedition had to be

cancelled at the last minute in King Williamstown because Alcott Blaauw, who was to act as interpreter, was unable to obtain the necessary travel documents, and their procurement would have taken more time than I could afford.

As Mr Blaauw had acted as an interpreter to both Jeffrey Peires and Michael Spicer in their more comprehensive field trips to the area I had planned to visit, and as it became apparent on talking to him that he had absorbed much of the information he had helped record, although of a very general nature, it seemed reasonable to include in the footnotes his confirmation of several points.

In conclusion, it must be pointed out that one of the problems encountered in this relatively small exercise was the fact that it sometimes seemed the informant was telling what he believed I wanted to hear. There is also the problem that in the recounting of tradition from father to son through the years, a strong element of western interpretation, gleaned from time spent at mission or government schools, newspapers and general contact with whites, has insinuated itself. Perhaps more so than with the other forms of historical evidence, oral tradition should be used with care, and only experience can perfect the technique.

CHAPTER ONE

D'URBAN IN SOUTH AFRICAN HISTORIOGRAPHY

Sir Benjamin D'Urban's four years as Governor of the Cape of Good Hope between 1834 and 1838 encompassed events of considerable economic, social and political importance. In obedience to the will of the British Parliament, D'Urban implemented the emancipation<sup>1</sup> of all slaves at the Cape in 1834. This event created repercussions of an economic nature throughout the Colony, and it compounded the dissatisfaction of many Dutch colonists in the Eastern Districts with the effects of distant British rule. The social and legal implications of emancipation with all men of all colours equal before the law were important reasons in the mass exodus of many such disgruntled colonists after the war of 1834-5 in a movement known as the Great Trek.<sup>2</sup>

The war of 1834-5 was the most severe clash on the eastern frontier with the Xhosa the Colony had yet experienced. Its conclusion resulted first in the development of the 'D'Urban System',<sup>3</sup> based upon the annexation of the territory between the Keiskamma and Kei rivers and the physical control of the inhabitants of that area, and later, with the province's renunciation on the instructions of the British government, in the establishment instead of the 'Treaty System'<sup>4</sup> with the tribes. This treaty system was implemented by Andries Stockenstrom,<sup>5</sup> an experienced

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<sup>1</sup>See Chapter 4.

<sup>2</sup>See Chapter 7. The fact that most trekkers came from the Eastern Districts with an estimated total of 7,919 slaves out of a total of 34,329 for the entire Cape Colony suggests that the actual financial losses of emancipation were of secondary importance. C.G.H. B.B. for 1833, p.141. Few Western Province farmers joined the Trek. See Theal, Vol. II, p.271.

<sup>3</sup>See Chapter 6.

<sup>4</sup>See Chapter 7.

<sup>5</sup>Andries Stockenstrom (1792-1864), of Swedish descent but born at the Cape, held a variety of positions in the colonial civil service, culminating in 1828 in his appointment as Commissioner-General of the Eastern Districts. A controversial figure, he resigned in 1833, but in 1836 the Secretary of State for War and the Colonies, Lord Glenelg, appointed

frontiersman, with the moral sanction of the British government, but both Stockenstrom and his system were bitterly resented by the colonists who preferred the implicitly aggressive nature of D'Urban's settlement.

The frontier settlement D'Urban established in the east has attracted the attention of many historians. Some like J.C. Chase<sup>6</sup> have been blatantly partisan to D'Urban. Others like W.M. Macmillan<sup>7</sup> have tended to castigate D'Urban for weakness, short-sightedness and stubbornness. More recently historians like James Roxborough<sup>8</sup> and John S. Galbraith<sup>9</sup> have shown D'Urban to be a capable governor whose resources were unequal to the task of creating order from a situation which was inherently chaotic due to the very nature of its components, namely a shortage of land, and two opposing societies which both prized cattle.

The interest in D'Urban's frontier policy and its results, often to the exclusion of all else, has been based primarily on the relation of that policy to race relations, both then and later. Where D'Urban's predecessors had been content to delineate a frontier line, keep contact between white colonists and black tribesmen to a minimum, and to pursue a simple but harsh system of military reprisal for cattle stealing, D'Urban's September policy of annexation, naturalisation, and the intended plantation of inter-dependent white farmers and black settlements in the conquered province, was an attempt to stabilise the frontier by controlled interaction between the races. It was based upon the dubious premise that the 'weaker' civilization would benefit from its co-existence with the technologically

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him to the strengthened post of Lieutenant-Governor of the Eastern Districts. Stockenstrom's evidence before the Aborigines Committee and his irascible temper made him an unpopular choice with the frontier colonists. See D.S.A.B., Vol. I, pp.774-8.

<sup>6</sup>John Centlivres Chase (1795-1877), an 1820 settler who rose to prominence as an Eastern Cape politician, and the author of political, social, and historical tracts. See D.S.A.B., Vol. I, pp.165-7.

<sup>7</sup>W.M. Macmillan was one of the earliest exponents of the liberal school of historical interpretation in South African history, and among other works the author of Bantu, Boer and Briton: The Making of the South African Problem.

<sup>8</sup>James Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers of the Cape of Good Hope, 1834-1845'.

<sup>9</sup>John S. Galbraith, Reluctant Empire: British Policy on the South African Frontier, 1834-1854.

more sophisticated civilization of the white colonist, adopt its ways and ultimately contribute to the prosperity of the Colony. In South Africa where the questions of co-operation and co-existence between black and white continue to dominate history, politics and much else of life, the historians' preoccupation with D'Urban's frontier policy and its strengths and weaknesses is understandable. Ultimately, however, such pre-occupation imparts a negative character to D'Urban's governorship, for his settlement displayed a lack of understanding for the dynamics of a tribal society, and solved few of the problems which had led to the war. It was a military solution designed first and foremost to put the Colony in the most advantageous strategic position in regard to any future aggression, and the order it achieved could only be maintained as long as a firm military presence was in evidence.

D'Urban's place in South African historiography has thus largely been determined by the way in which his frontier policy has corresponded to, or differed from, the views of his biographers.

The early conservative or 'settler' school of interpretation propounded by J.C. Chase and Robert Godlonton,<sup>10</sup> and later amplified by Sir George Cory<sup>11</sup> and George McCall Theal,<sup>12</sup> was anxious to defend the European settler, whose conduct towards the indigenous races at the Cape had been viewed with increasing disfavour in the course of the third and fourth decades of the Nineteenth Century, both in official British government circles, and by various philanthropically orientated bodies in Britain and at the Cape itself.

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<sup>10</sup>Robert Godlonton (1794-1884), a journalist, businessman and politician who staunchly advocated the interests of the colonists of the Eastern Districts, and defended them against imagined and real insults. See B.A. le Cordeur, 'Robert Godlonton as Architect of Frontier Opinion, 1850-1857', A.Y.B., 1959, Vol. II.

<sup>11</sup>Sir George Cory (1862-1935), one time Professor of Chemistry at Rhodes University College, and a self taught historian. His interest in 1820 settler history expanded into a full-time vocation in his later life, and between 1910 and 1930, he published five volumes in a series entitled The Rise of South Africa. A sixth and incomplete volume was published posthumously. See D.S.A.B., Vol. II, pp.142-5.

<sup>12</sup>George McCall Theal (1837-1919), variously a teacher, bookkeeper, journalist, diamond-digger and a self taught historian. He is principally remembered for his thirty-six volume collection of copied documents entitled Records of the Cape Colony, and his eleven volume History of South Africa.

This disfavour had been given wide circulation through the columns of The South African Commercial Advertiser, established in January, 1824, and by a series of publications, notably Philip's<sup>13</sup> Researches in South Africa, (1828), Bannister's<sup>14</sup> Humane Policy or Justice to the Aborigines of New Settlements, (1830), Kay's<sup>15</sup> Travels and Researches in Caffraria, (1833), and Pringle's<sup>16</sup> Narrative of a Residence in South Africa, (1835).

Both Chase and particularly Godlonton were concerned to neutralise the criticism of their opponents, and redeem the image of the colonists in Britain. The latter was quick to publish A Narrative of the Irruption of the Kafir Hordes into the Eastern Province of the Cape of Good Hope, 1834-35, at the war's end. This publication was fundamentally a review of the position of the colonists during the war, and an attempt to correct the

partial and false statements which have been published and sent abroad to the world for no other purpose than to excite its hostility against the suffering colonists, and in these it will be found that the relative characters of the Kafirs and colonists have been shamefully misrepresented.<sup>17</sup>

This criticism was in part aimed at John Fairbairn, editor of The South African Commercial Advertiser in Cape Town, and son-in-law to Dr Philip.<sup>18</sup>

<sup>13</sup>Rev. Dr John Philip (1777-1851), Superintendent of the London Mission Society at the Cape from 1819 to 1848, and an ardent champion of the rights of the Colony's indigenous peoples and its free people of colour. See D.S.A.B., Vol. I, pp.612-20.

<sup>14</sup>Saxe Bannister (1790-1877), had been Attorney-General of New South Wales between 1823-6, and later practised law at the Cape.

<sup>15</sup>Rev. Stephen Kay, a member of the Wesleyan Missionary Society who spent the years between 1824-31 on the northern and later the eastern frontiers. The introductory sentence in his Travels read: "To urge upon the Christian world the loud and affecting calls of the perishing African, is the writer's principal object in the following pages."

<sup>16</sup>Thomas Pringle (1789-1834), poet, journalist, philanthropist, and associate of Thomas Fowell Buxton. See D.S.A.B., Vol. I, pp.656-8.

<sup>17</sup>Robert Godlonton, A Narrative of the Irruption of the Kafir Hordes into the Eastern Province of the Cape of Good Hope, 1834-35, p.229.

<sup>18</sup>For an analysis of the grounds of the disagreement between Godlonton and Fairbairn, see John Frye, 'The South African Commercial Advertiser' and the Eastern Frontier, 1834-1847: an examination of the ways in which and the sources from which it reported frontier conflicts.'

The Narrative also accorded strong support for D'Urban's frontier settlement. Godlonton declared:

His Excellency had only resolved upon this step [the annexation of the trans-Keiskamma territory] after the most careful consideration of the subject in all its bearings, and from a firm conviction that it would not only tend to tranquilize the colonial frontier, but also essentially lead to the civilization of the barbarian tribes which would thus be placed within our jurisdiction. <sup>19</sup>

During the period of the treaty system (1836-1846) Godlonton was particularly concerned to point out its shortcomings, and to give voice to the colonial resentment of many of its provisions. One of his most effective ploys was to highlight adversely the defects of the treaty system in comparison with the popular but shortlived D'Urban settlement. The columns of The Graham's Town Journal in this decade were replete with praise of D'Urban and his frontier policy. Shortly before the outbreak of the War of the Axe in 1846 which presaged the abolition of the treaty system, the editorial of The Graham's Town Journal of 18 April, 1846, declared:

...there is a reasonable hope of a return to sound rational measures, measures which embody principles as firm, as enduring and as unchangeable in their very essence as truth and justice themselves. These principles teach us to deal with man as such, to treat him as one who requires moral culture; who must be taught to 'cease to do evil, to learn to do well', that his essential happiness, both here and hereafter, is bound up with this holy precept, and that they are therefore his true friends, who, while they restrain him from the commission of evil, not only point him to that which is good, but hold out to him at the same time the hand of benevolence, and raise him from his fallen abject condition. These...are the great principles and their results upon which rest what is called the D'Urban system. <sup>20</sup>

The moral and political tone of this panegyric clearly underline the importance to Godlonton of D'Urban's settlement, not only as an instrument with which to belabour an unpopular treaty system, but also as a tenet of his faith that the settlement was the best way to achieve stability and order on the frontier. Godlonton thus fostered D'Urban's reputation and the legend of a frontier system under which all would have prospered.

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<sup>19</sup>Godlonton, A Narrative..., p.187.

<sup>20</sup>C.L., G.T.J., 18 April, 1846, editor's emphasis.

D'Urban also had an admirable contemporary supporter in James Centlivres Chase, who, together with Alexander Wilmot<sup>21</sup> wrote A History of the Cape of Good Hope from its Discovery to the year 1819 and from 1820 to 1868. In this Chase stylised D'Urban as "The Good",<sup>22</sup> and declared that during the period of his frontier settlement depredations almost ceased, witchcraft was abolished in the new Province, and "both colonists and Kafirs were happy and contented with...the peace and its prospects for the future."<sup>23</sup> He contented himself with this bald generalisation and failed to supply the evidence to support it.

During the period he was compiling Natal, a re-print of all the Authentic Notices, Descriptions, Public Acts and Documents...in Two Parts, Chase kept in communication with D'Urban for his advice, but he could hardly be described as an unbiased observer. Upon hearing of D'Urban's offer of an appointment in India, he wrote to his mentor:

I have long cherished as has the public of the frontier, the ardent hope, perhaps a selfish one, of your restoration to this government, but of late this desire has greatly declined for it would have been unjust and ungenerous to have wished your resumption of office in a colony so desperately situated as this has become, owing to the reversal of your benevolent measures. <sup>24</sup>

In the course of compiling their compendious works on South African history, Cory and Theal became convinced of the benevolence and unimpeachable nature of D'Urban's settlement, and they set about to develop the course set earlier by Godlonton and Chase. The method Cory and Theal used, whether consciously or not, was to stress the negative characteristics of Africa's indigenous peoples, and highlight the more positive aspects of white colonisation. Although often correct in their vast accumulation of facts, their interpretation left much to be desired. Cory, for example, blithely described the Xhosa as "tribes

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<sup>21</sup>Alexander Wilmot (1836-1923), Cape parliamentarian and author. See D.S.A.B., Vol. II, pp.849-50.

<sup>22</sup>A. Wilmot and J.C. Chase, A History of the Cape of Good Hope from its Discovery to the year 1819, and from 1820 to 1868, p.304.

<sup>23</sup>Ibid., pp.339-40.

<sup>24</sup>C.A., A519, Vol. 9, pp.49-51, J.C. Chase to D'Urban, 25 June, 1842.

of thieves and murderers...ever watchful along the left bank of the Fish River",<sup>25</sup> and Hintsa, the Xhosa Paramount killed during the war of 1834-5, as "richly endowed with all the vices of the savage -- cruelty, treachery, avarice and the deepest cunning, all of which...actuated him during the last few days of his life."<sup>26</sup> D'Urban's imaginative but militarist policy of the annexation of the territory between the Kei and Keiskamma Rivers, the location and settlement in specified areas of all tribes under white magistrates and British law, was seen as a positive measure to stabilise the frontier. Factors like the justice of such a policy or the consideration of future land requirements<sup>27</sup> by an expanding black population were ignored.

The renunciation of Queen Adelaide Province, formally proclaimed on 2 February, 1837, was seen in the light that "a good Governor had made a good settlement to [the colonists'] way of thinking, and...a distant and presumably ill-disposed Imperial authority had overturned it."<sup>28</sup> Glenelg's<sup>29</sup> despatch of 26 December, 1835, which directed the abandonment, earned the sobriquet 'infamous', the product of a narrow misguided philanthropy, and a disaster for both whites and blacks because it subverted a sound and well-regulated system of government and returned the frontier to a state of lawlessness. Cory wrote of Glenelg that he was

undoubtedly actuated by generous and noble motives, but withal he laboured under grievous misapprehension... There can be no doubt that he shared in the prejudice against the colonists which was then so prevalent...and equally little doubt that he was misled by those whose zeal in the cause of humanity had got the better of their discretion.<sup>30</sup>

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<sup>25</sup>Cory, The Rise of South Africa, Vol. III, p.41.

<sup>26</sup>Ibid., p.154.

<sup>27</sup>See O.H.S.A., Vol. I, pp.254-6.

<sup>28</sup>Eric A. Walker, The Great Trek, p.101.

<sup>29</sup>Charles Grant, created Lord Glenelg in May, 1835, Secretary of State for War and the Colonies, April, 1835, to February, 1839.

<sup>30</sup>Cory, Vol. III, p.278.

Thus D'Urban and his frontier policy were used as a symbol by the settler school in the pursuit of controversial goals.

The work of Cory and Theal had a definite parochial appeal, and came to be accepted in the late Nineteenth Century and early Twentieth Century as the basis of much South African historiography. The academic reaction to it took form in the 1920s and 1930s under such historians as W.M. Macmillan, Eric A. Walker<sup>31</sup> and C.W. de Kiewiet,<sup>32</sup> all of whom were convinced that the work of the settler school was biased, anachronistic and socially regressive. This liberal school derived its motivation from the characteristically Nineteenth Century liberal assumptions that the dignity of the individual should be respected and allowed expression through the benefits of education; that the individual regardless of race or creed possessed certain fundamental rights, and that the possibilities of reasoned progress based on human dignity were limitless.

In the preface of Maynier and the First Boer Republic, J.S. Marais<sup>33</sup> deliberately set out "to question Theal's competence as a finder of facts", to present the view that "almost all Theal's errors, whether of fact or of interpretation tend to one result: to tilt the balance in favour of the European colonists, and against the non-Europeans as well as those Europeans who, like Maynier, were critical of the colonists' point of view and behaviour."<sup>34</sup> Marais was determined to show Theal's ineptitude with regard to Maynier for he declared

If a man's prejudices have spoilt his work on the period 1778-1802, might they not have done the same in respect of other periods and more particularly in respect of the relations between Europeans and non-Europeans during such periods?

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<sup>31</sup>Eric A. Walker, King George V History Professor at the University of Cape Town from 1911 until 1936, and Vere Harmsworth Professor of Imperial and Naval History at Cambridge from 1936 to 1951. Author of several important works on South African history, notably The Great Trek and A History of Southern Africa.

<sup>32</sup>C.W. de Kiewiet, liberal historian, sometime Professor of History, Cornell University, and author of A History of South Africa: Social and Economic.

<sup>33</sup>J.S. Marais, liberal historian, contemporary of de Kiewiet and Macmillan, and author of The Cape Coloured People.

<sup>34</sup>J.S. Marais, Maynier and the First Boer Republic, Preface, pp. V-VII.

Marais explained that in challenging Theal, he was challenging the accepted view of South African history, and supporting the obvious need "to go to the records and to study them in detail",<sup>35</sup> an approach which exemplified the mode of liberal analysis.

Inevitably, "the good and great Sir Benjamin D'Urban"<sup>36</sup> whom the settler school believed to have been sacrificed by the British government to unrealistic, philanthropically-minded interests, drew fire from the liberal school who condemned him for the policies his supporters admired. Thus, Macmillan the first defender of Dr Philip, wrote in 1928 that it was "to Glenelg's credit and to the honour of British imperialism that annexation was not to be lightly and greedily sanctioned for the sake of acquiring territory."<sup>37</sup> In the same way that Dr Philip had received rough treatment at the hands of the settler school as the "bitterly unpopular champion of 'vagrants'",<sup>38</sup> so D'Urban came to be treated less than fairly by Philip's partisans who tended to concentrate on the negative aspects of the Governor's character and policies with little or no reference to the more positive features of his governorship. Macmillan in particular drew a picture of a Governor obsessed with "...an extraordinary secretiveness...in his intercourse with Dr Philip in [May-July, 1834] ...";<sup>39</sup> one who possessed "a faculty for delay";<sup>40</sup> and, shortly after reaching the frontier, "suffering a violent revulsion of feeling [and throwing] his weight, like the soldier he was, on the side of those whose faith was in the sovereign efficacy of 'powder and ball'."<sup>41</sup> Here Macmillan touched upon something which Philip had long

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<sup>35</sup>Ibid.

<sup>36</sup>Wilmot and Chase, History of the Colony of the Cape of Good Hope, p.327.

<sup>37</sup>Macmillan, Bantu, Boer and Briton (1929 edition), p.141.

<sup>38</sup>Macmillan, Bantu, Boer and Briton (1963 edition), p.107.

<sup>39</sup>Ibid.

<sup>40</sup>Ibid., p.120. This "faculty for delay" was seen primarily through Mrs Philip's letters to friends in England. She also stated, however: "For my part, I think there is a great deal more in him than many are willing to allow, and from experience we see that he is very attentive to business." (p.121).

<sup>41</sup>Ibid., p.127.

voiced: the weakness in the approach of the Colonial Office to the problem of the frontier lay in the fact that military men were consistently appointed to perform a task more suited to civil administrators. Macmillan also took D'Urban to task for a "lack of balance"<sup>42</sup> during the period from May, 1835 to February, 1837, the period of annexation of Queen Adelaide Province, which he believed was "in keeping with the remissness of his despatch writing...D'Urban, it would seem, had a mind only for details, with little or no grasp of the situation as a whole..."<sup>43</sup>

The focus of Macmillan's interpretation ultimately turned on two sentences. He wrote: "In the end D'Urban hero worship became so ardent as to cover up his generally inefficient conduct of the whole affair";<sup>44</sup> later on he stated: "Like Lord Charles Somerset in 1824, D'Urban put the blame for all his troubles on the doughty Dr Philip, and to this day D'Urban's allegations pass for definitive history."<sup>45</sup> Macmillan was thus guilty of making the same mistake as the settler school. He had used D'Urban as a symbol, this time of the narrow, prejudiced colonial point of view which was virulently anti-Philip, without considering him in the 'round' - as the Governor who directed the thorny problem of slave emancipation, for example, or as the administrator who supervised the introduction of a new constitution, and inaugurated a scheme for municipal administration which was without parallel at that time in any other part of the British empire. Eric A. Walker, a contemporary of Macmillan's, at least wrote that by the time D'Urban left the Cape most of his

comprehensive programme of reforms had been accomplished; the Legislative Council, the revised Charter of Justice, retrenchment, emancipation and the beginnings of municipal government witnessed to that. But a satisfactory native policy had not been evolved. There is much South African political history summed up in D'Urban's four years in office. <sup>46</sup>

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<sup>42</sup>Macmillan, Bantu, Boer and Briton, p.172.

<sup>43</sup>Ibid., p.172.

<sup>44</sup>Ibid., p.156.

<sup>45</sup>Ibid., p.186.

<sup>46</sup>Eric A. Walker, A History of Southern Africa (1972 corrected impression), p.206.

There are points of contact between the view Macmillan took of D'Urban, and that taken by John S. Galbraith in his study Reluctant Empire: British Policy on the South African Frontier 1834-1854. Galbraith believed D'Urban's annexation was "highly imaginative"<sup>47</sup> in concept, but lacked both the necessary finances and an understanding of the nature of a tribal society to execute it properly. His basic premise was that "D'Urban was sent to South Africa to achieve objectives that were contrary, with resources that were inadequate. He was predestined to fail."<sup>48</sup> His basic approach was thus a negative one and one which also failed to encompass with any great clarity the positive aspects of D'Urban's governorship.

Although Galbraith did not emphasize it to the same degree that Macmillan had done, he also noted D'Urban's penchant for secretiveness, and cited as an example the Governor's request to Lieut.-Col. Somerset, Commandant of the Frontier, to keep him informed of everything of importance which happened on the frontier under the new Lieutenant-Governor, Andries Stockenstrom, a man with whose policies he disagreed. Indeed D'Urban seems to have tacitly encouraged junior officials and officers to perform a similar function. Galbraith also indicated D'Urban's "excessive reticence" in failing to inform the irascible Stockenstrom of his abandonment of martial law in Queen Adelaide Province, an act which caused an immediate and thereafter deepening rift between the two men, and noted his vindictiveness<sup>49</sup> in the despatch of 9 June, 1836. In this despatch "D'Urban's purpose was no longer vindication, but the wounding of a minister whom he regarded with manifest contempt."<sup>50</sup> Galbraith also considered D'Urban's failure to inform his superiors of the details of his September policies as inconsistent with his reputation for efficiency, or indeed "intelligent self-interest",<sup>51</sup> and made certain that they would not be approved. It remains a moot point whether a prompt despatch informing the Colonial Office of the September policy

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<sup>47</sup>Galbraith, Reluctant Empire, p.118.

<sup>48</sup>Ibid., p.98.

<sup>49</sup>Ibid., p.137.

<sup>50</sup>Ibid., p.137.

<sup>51</sup>Ibid., p.128.

would have changed the substance of Glenelg's despatch of 26 December, 1835. D'Urban's annexation of Queen Adelaide Province was a clear violation of his Instructions, and his proclamation of the Xhosa as British subjects was beyond his legal competence. D'Urban had moreover mobilised two powerful forces in England with little in common beyond their opposition to that annexation. The humanitarians condemned him for unjust conquest, the economy-minded for undertaking such a conquest when retrenchment was the order of the day.

Galbraith noted that "after the reversal of his annexation, D'Urban devoted the remainder of his life to the vindication of his policy and that this preoccupation approached the psychotic..."<sup>52</sup> He was probably correct in this assumption, but D'Urban was not the only one who believed that had his measures been given a fair chance, they would have succeeded in creating order on the frontier. When Sir Harry Smith was appointed Governor and High Commissioner of the Cape in 1847, he wrote to D'Urban, then commander of the British army in Canada, and declared that he was going to "redo what Lord Glenelg so ably did undo." He added, "you are far more qualified for the task of restoring confidence, peace and a prospect of tranquility."<sup>53</sup>

If some liberal historians have been less than fair in their treatment of D'Urban, the radical school of interpretation in South African history has virtually ignored him. This is not deliberate or even unusual for the radical school deals more in concepts than in characters, and has confined itself largely to the analysis and development of social and economic trends. The radical school derived its title both as a result of its attack on the historical interpretation of the liberals, and for its adherence to Marxist or neo-Marxist economic beliefs, although the extent to which each radical historian opposes the liberal interpretation or follows any Marxist model varies greatly. Thus D'Urban, Philip, and Glenelg are submerged in the broad impersonal search for the answer to such questions as Martin Legassick has asked: "What is the frontier, and what are its specific influences and how does

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<sup>52</sup>Ibid., p.141.

<sup>53</sup>Smith to D'Urban [?], quoted by Joseph Lehmann, Remember you are an Englishman, p.275.

it produce and perpetuate them...if indeed it does at all."<sup>54</sup>

One of the themes of Legassick's paper, 'The Frontier Tradition in South African Historiography', was a criticism of the liberal historians for stressing the influence of the frontier environment in their explanations of white racial attitudes; he suggested that these attitudes could be better explained through analysis of the colonists' social background. Legassick wrote: "The pattern of racial relationships established in the 18th Century Cape must be seen in the light of the formation of the Cape colonist as a whole, the form of his inheritance from Europe and the exigencies of the situation he had to face."<sup>55</sup> Interestingly enough, Legassick, who criticised the liberals for oversimplifying the complex impact of the frontier, was in turn criticised by Oloyo, one of his colleagues, for oversimplification. In a review of Legassick's paper Oloyo wrote: "The complex politics of the frontier zone, with both black and white manipulating each other for their own purposes, suggests that any simple view of a 'frontier tradition' is misleading."<sup>56</sup> This disagreement as to fundamental principles would seem to suggest that the radical school, unlike the liberal school, has yet to establish a generally acceptable base from which to depart into further and more unified analysis and study.

Harrison M. Wright in his The Burden of the Present criticised Legassick's article on frontier tradition for "weaknesses of description, of analytic method and of scholarly technique."<sup>57</sup> Among these defects he discerned principally "a use of false dichotomies and the use, or misuse, of evidence",<sup>58</sup> which he believed were characteristic of many radical works which seemed to discredit the work of liberal historians.<sup>59</sup>

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<sup>54</sup>M. Legassick, 'The Frontier Tradition in South African Historiography', Collected Seminar Papers on The Societies of Southern Africa in the 19th and 20th Centuries, Vol. 2, pp.16-17.

<sup>55</sup>Ibid.

<sup>56</sup>M. Oloyo, 'The Cape Eastern Frontier in the early 19th Century', Collected Seminar Papers on The Societies of Southern Africa in the 19th and 20th Centuries, Vol. 3, pp.1-9.

<sup>57</sup>Harrison M. Wright, The Burden of the Present, pp.64-6.

<sup>58</sup>Ibid., p.70.

<sup>59</sup>Ibid., pp.77-82.

Wright emphasised that much of the evidence adduced by the liberal historians in support of their interpretations had not been undermined and remained to be disproved. Wright was undoubtedly correct in calling the radicals negligent in their disregard of sound historical procedure by attempting to fit evidence to a conceptual framework.<sup>60</sup>

Donald Denoon, one of the few radical historians who attempted a general synthesis of South African history since 1800, saw D'Urban as one in a line of colonial Governors who, in attempting to settle the problem of the frontier, subjected the frontier tribes "to ever increasing pressure...and [concentrated them] into ever decreasing areas of the countryside."<sup>61</sup> D'Urban was "determined to push the frontier tribes back, and fill up the vacuum with the Mfengu and white settlers. The Imperial Government in London, however, realised that such a policy was not a solution, but an aggravation of the frontier problem and demanded that the area be handed back."<sup>62</sup> According to Denoon, D'Urban's attitude towards the frontier tribes was thus unsympathetic. While this critique possessed points of contact with the views of an historian like Macmillan, the underlying theoretic base is completely dissimilar.

At present a black school of interpretation in South African historiography exists, but it has yet to be expressed as coherently and effectively as the liberal school, or even with the impact that the radicals have achieved, despite their disunity. J.H. Soga's<sup>63</sup> The South-Eastern Bantu, published in 1930, was described by its editor as "the first considerable attempt made by an educated man of Bantu descent and in touch with Bantu tradition, to present the History of his people..."<sup>64</sup> In this work, Soga viewed D'Urban as a Governor who had

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<sup>60</sup>See also Alan Hodgart, The Economics of European Imperialism.

<sup>61</sup>Donald Denoon with Balam Nyeko and the advice of J.B. Webster, Southern Africa since 1800, p.96.

<sup>62</sup>Ibid., p.46.

<sup>63</sup>The Rev. John Henderson Soga, educated at Edinburgh University, and ordained in 1893 by the Edinburgh Presbytery; missionary in Griqualand East and Elliotdale. Also the author of The Ama-Xosa: Life and Customs.

<sup>64</sup>J.H. Soga, The South-Eastern Bantu, Editor's Introduction, p. V.

left England determined to see justice done to Xhosa and colonist alike, but was soon won over by colonial sentiment "to the conclusion that it was his supreme duty to further the interests of the colonists at the expense of the Native tribes."<sup>65</sup> With telling criticism, Soga declared that it should have been D'Urban's duty to deal with the frontier situation primarily as a statesman and not as a soldier. He believed D'Urban's popularity amongst the colonists of his day was based on four things: his wholehearted interpretation of colonial aspirations by prosecuting "with vigour the war which he found in active progress on his arrival in the country"; his extension of the colonial boundary, with the consequent increase in land available for white settlement; his invasion of Gcaleka-land, which benefitted the Colony "through the suppression of the power of Hintsu, the supreme head of all Xhosa tribes";<sup>66</sup> and finally the 'emancipation' of the Mfengu, which was important economically for the Colony because it made available a vast reservoir of labour so necessary for agricultural pursuits.

Although Soga criticised D'Urban's delay in meeting with the frontier chiefs, after he had informed them of his intention to do so, as culpable and lacking in judgement, he clearly stated that D'Urban was in "no way responsible for the cause which led to the Sixth Frontier War."<sup>67</sup> He characterised this cause as the disputed nature of the neutral territory "taken by the Governor [Lord Charles Somerset] from the chief Gaika as a quid pro quo for assistance given him by the Colonial Government against the would-be usurper Ndlambe, in 1818."<sup>68</sup> D'Urban inherited the problem, but Soga was also convinced that once war had broken out, D'Urban deliberately set out to break Hintsu. The Governor assumed that Hintsu was the hereditary sovereign of all the Xhosa in the European manner, and he believed that by reducing the chief's power he would reduce that of the Xhosa as a tribe. Soga emphasised that D'Urban and the colonial authorities failed to appreciate the nature of Xhosa society.<sup>69</sup>

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<sup>65</sup>Ibid., pp.186-7.

<sup>66</sup>Ibid., p.187.

<sup>67</sup>Ibid., p.188.

<sup>68</sup>Ibid., p.189.

<sup>69</sup>Ibid., pp.189-190. Soga characterised the political structure of Xhosa society in the following terms: "Theoretically, Hintsu was Paramount Chief of all the Xosas, but the Rarabes, of whom the Gaikas are the principal section, had declared their independence by breaking away

Soga expressed the view that Hintsä in fact had not given himself up as a hostage to guarantee compliance with D'Urban's demands for the restitution of cattle, but in fact had been made a prisoner by Smith during a parley. He declared

If this view, held by many, of the arrest of Hintsä is the true one, it seems to be a distinct violation of the Law of Nations, and Sir Benjamin D'Urban should not have allowed it. That he allowed it illustrates the contrast in character between these two men: Smith, brusque and dominating, D'Urban weak and lacking in personality.<sup>70</sup>

Soga concluded his main reference to D'Urban with the following significant paragraph:

[D'Urban's] actions, coming under the searchlight of British ideas of justice did not commend themselves to the Home authorities. There is at the heart of British life, individual and public, what has been justly termed the MORAL CORE and the COLLECTIVE SENSE based upon it, whereby acts of injustice perpetrated against an individual or a section of the community are tested under this code and judgement is meted out in accordance with its character. No one dare flout British public opinion with impunity. Sir Benjamin D'Urban came into conflict with it and he had to go.<sup>71</sup>

Once again the points of contact with the liberal school, as expressed by Macmillan, are apparent. Equally obvious is Soga's own theological training at Edinburgh University, and his experience as a minister of the United Presbyterian Church.

While there is an acceptable historical point of view apparent in Soga's writing, the same may not be said for Nosipho Majeke's The Rôle

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from Gcaleka, Hintsä's grandfather, and settling in a new country. In actual fact the Gcaleka chief had no jurisdiction over the Gaikas. By courtesy, matters affecting Xosa customs might occasionally be referred to the chief of the older branch, especially when a question of precedent was involved, but that did not prevent the Right-Hand House from following its own line of conduct, irrespectively of what that precedent might be, should it choose to do so. Laws promulgated by the court of the Gaikas were not subject to interference by the Gcaleka chief. The latter's authority in such matters was in reality a cipher."

<sup>70</sup>Ibid., p.198. My emphasis.

<sup>71</sup>Ibid., pp.200-1.

of the Missionaries in Conquest and 'Mnguni's' Three Hundred Years : A History of South Africa. Both these authors took the hard Marxist line of subordinating history to serve the needs of the present, and Majeke bluntly and uncompromisingly stated in his introduction "For a people engaged in a liberatory struggle, it is necessary to rewrite its history of the past..."<sup>72</sup> There is irony in the fact that as with the 'settler' school of interpretation at the other end of the spectrum, Majeke and 'Mnguni' saw the missionaries and especially Dr John Philip, as the 'eminences grises' of British expansionism. But instead of picturing them as favouring the Colony's indigenous peoples to the detriment of the colonists, Majeke and 'Mnguni' represented them as manipulators of both black and white with the ultimate object of establishing imperial domination over large parts of Africa. To back their perspective, facts were deliberately distorted. Thus 'Mnguni' could declare with little supporting evidence that the British planned to wage war against the Xhosa in 1834, but "fearing an attack before he was ready, D'Urban sent Philip to meet and buy off the chiefs in October, 1834, and stall for time while British reinforcements were organised."<sup>73</sup> Philip was the "secret force" behind the war, and the "co-assassin of Hintsa, for he [Philip] was a supporter of 'strong measures' against Hintsa, and wanted the annexation of Hintsa's lands."<sup>74</sup> 'Mnguni' believed that there was no essential difference between the ideas of D'Urban, Glenelg, Philip and Stockenström:

D'Urban wanted annexation, White colonisation and rule through White controlled chiefs; Stockenström preferred White pockets around forts, protected by arms and treaties with White-controlled chiefs, a view to which Glenelg inclined during the sittings of the Aborigines Committee...; Philip wanted White officials and chiefs to precede White colonisation, and to rule through chiefs. All agreed that England must rule, through White-controlled chiefs; disagreeing mainly as to the tempo of occupation of the Queen Adelaide district.<sup>75</sup>

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<sup>72</sup>Nosipho Majeke, The Rôle of the Missionaries in Conquest, Introduction. The name Majeke is a pseudonym, and it is not clear whether he is in actual fact a black.

<sup>73</sup>'Mnguni', Three Hundred Years: A History of South Africa, Vol. 2, p.79. Mnguni is similarly a pseudonym.

<sup>74</sup>Ibid., p.80.

<sup>75</sup>Ibid., p.81. 'Mnguni's' emphasis.

Such a view assumed the existence of a coherent British policy which events before and after the annexation of Queen Adelaide Province have shown did not exist. 'Mnguni's' interpretation of the facts belong more to the realm of historical gymnastics and crude ideological interpretation than to objective historical analysis.

An influential school of interpretation in South African history is that of the Afrikaner historians. Most Afrikaner historians have based their approach to D'Urban's governorship on Theal and Cory. They have tended to view it with sympathy and to place the blame for the failure of D'Urban's frontier settlement on Philip and the philanthropists in Britain. In Geskiedenis van Suid-Afrika, van der Walt, Wiid and Geyer pointed to the popularity of D'Urban's frontier settlement in the Colony,<sup>76</sup> the great influence its renunciation had on the Great Trek, and they castigated the machinations of Philip and the Aborigines Committee for the abandonment of so promising a settlement.<sup>77</sup>

In the collection of essays by Afrikaner historians entitled Five Hundred Years: A History of South Africa, which its editor C.F.J. Muller described as "...an attempt...to tell South Africa's story within reasonable limits and in broad outline",<sup>78</sup> D'Urban's annexation of Queen Adelaide Province was regarded as a positive and popular move to stabilise frontier relations, assign whites and blacks to specific areas, and, with limited land available for farming, establish "more intensive agricultural methods". The resulting "mutual dependance [would make] it imperative that co-operation should replace rivalry".<sup>79</sup> Blame was laid on "industrious philanthropists in Britain"<sup>80</sup> for the settlement's abandonment, and the subsequent trek of the frontier farmers beyond the colonial borders. D'Urban's attitude to these trekkers was viewed as

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<sup>76</sup>A.J.H. van der Walt, J.A. Wiid, and A.L. Geyer, Geskiedenis van Suid-Afrika, Vol. I, pp.256-7.

<sup>77</sup>*Ibid.*, Vol. II, p.401.

<sup>78</sup>C.F.J. Muller (editor), Five Hundred Years: A History of South Africa, introduction, p. XII. Muller is one of the foremost Afrikaner historians with a particular interest in the Great Trek.

<sup>79</sup>*Ibid.*, p.120.

<sup>80</sup>*Ibid.*, p.167.

conciliatory and realistic: "The Governor was virtually alone in considering the Great Trek to be detrimental to the Colony, and in doing his utmost, as far as the authorities and frontier conditions would permit him, to remedy the grievances of the frontier farmers as speedily as possible."<sup>81</sup>

In one of the most recent Afrikaans studies of the period,<sup>82</sup> C.F.J. Muller also believed that D'Urban's settlement was wrecked by the humanitarians, but his focus was finer than those of most early works. He emphasised the fact that D'Urban's administration had been virtually hamstrung by strict controls on colonial expenditure, and that this weakness had been compounded by the influence of the humanitarians. Nevertheless, Muller declared "Dit was die finansiële en filantropiese faktore wat die toon aangegee het; en van die twee was die finansiële faktor per slot van rekening dominerend."<sup>83</sup> Muller also saw in D'Urban's frontier settlement the Governor's recognition of the need to assuage colonial land hunger, but once again he was thwarted by the humanitarians: "Hoewel D'Urban hard probeer om 'n groot streek oor die Oosgrens by die Kolonie in te lyf, begin dit algaande duidelik word dat 'n filantropiese grensbeleid gevolg sal word, en dat grond vir bewoning deur Blankes nie daar beskikbaar sal wees nie."<sup>84</sup> But Muller also indicated that D'Urban feared the immigration of the Boers, particularly men like Louis Trichardt,<sup>85</sup> initially across the frontier, and later towards the north and Natal as a potential threat to the Colony, believing that anti-British elements could influence the Xhosa,<sup>86</sup> and that even those who merely sought land and the freedom to act as they saw fit, would cause ferment among the tribes they encountered. Such activities would in turn

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<sup>81</sup>Ibid., p.135.

<sup>82</sup>C.F.J. Muller, Die Oorsprong van die Groot Trek.

<sup>83</sup>Ibid., p.304.

<sup>84</sup>Ibid., p.304.

<sup>85</sup>Louis Trichardt (1783-1838), Voortrekker leader. Trichardt was in disfavour with the Colonial government for taking his slaves illegally beyond the colonial frontier. See E.A. Walker, History of Southern Africa, p.199.

<sup>86</sup>Muller, op.cit., p.20.

jeopardise the Colony and particularly its sensitive eastern frontier.

D'Urban was mentioned favourably in the correspondence and memoirs of his contemporaries - superiors and subordinates alike. D'Urban's second-in-command during the Sixth Frontier War, the mercurial and energetic Sir Harry Smith, criticised his commander's slow and cautious approach to problems, humorously dubbing him "Sir-Slow".<sup>87</sup> He nevertheless had a deep respect for D'Urban, describing him as "a most amiable man...the most educated and accomplished soldier I have ever served with."<sup>88</sup> After leaving the Cape in 1840 for India, Smith continued to correspond with D'Urban, then living at Wynberg in the Cape, and when the position of commander-in-chief of the British army in India fell vacant in 1843, Smith implored D'Urban "to write the Duke [Wellington] himself as well as Sir R. Peel [for the post.] Now is the time to redeem yourself from ill-usage."<sup>89</sup> D'Urban's successor as Cape Governor, Sir George Napier,<sup>90</sup> came to value the former Governor's advice, and fifteen years after D'Urban's dismissal, Earl Grey wrote that "D'Urban's opinion on Cape affairs weighs with me far more than that of any man who has been there."<sup>92</sup> Even the austere and aloof Duke of Wellington, when informed of D'Urban's frontier policy was reported to have declared: "Leave D'Urban alone. It is in good hands. He will soon put that all to rights for you."<sup>93</sup>

Andries Stockenstrom, with whom the Governor was at loggerheads for most of 1837, wrote of D'Urban that "he bore the highest character

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<sup>87</sup>Lehmann, Remember You are an Englishman, Plate 12, between pp. 128 and 129.

<sup>88</sup>G.C. Moore-Smith (ed.), The Autobiography of Lieut.-Gen. Sir Harry Smith, p.368.

<sup>89</sup>Smith to D'Urban [?] quoted by Lehmann, Remember You are an Englishman, p.214.

<sup>90</sup>Governor of the Cape, January, 1838 - March, 1844.

<sup>91</sup>Henry Grey (1802-94), third Lord Grey, Secretary of State for War and the Colonies, July, 1846 - February, 1852.

<sup>92</sup>Grey to Harry Smith, private, 14 August, 1851; quoted in Galbraith, Reluctant Empire, p.103.

<sup>93</sup>C.A., A519, Vol. 18, pp.231-40, Beresford to D'Urban, 12 September, 1835.

as a soldier, and in his private relations was much respected, as a father of a family and a man of honour."<sup>94</sup> Understandably the former Lieutenant-Governor was less impressed with D'Urban's executive abilities. With a condescending and faintly sarcastic tone he declared that if D'Urban had had time "to become sufficiently acquainted with the Colony, and its relations with its neighbours...before he was overwhelmed by a flood of bewildering popularity and flattery, of the real value whereof his knowledge of history might have reminded him, he would have made an excellent Cape Governor as I believe his natural disposition would have inclined towards justice and humanity."<sup>95</sup>

The preceding brief survey of South African historiography as it relates to D'Urban makes it clear that the emphasis of past study has been placed on the problem of the frontier, D'Urban's solution of that problem, the remedy favoured by the Colonial Office and directed by Glenelg to be implemented by Stockenström. The problem of the frontier, however, was only one of many to which D'Urban was instructed to find an answer. If one puts D'Urban's governorship into the overall picture of the social, constitutional and administrative achievements of the Colonial government at the Cape between 1834-8, there is much to support the view of D'Urban as a capable and conscientious colonial administrator, although one who was heavily burdened by the enormity of his responsibilities. Certainly the picture prior to his appointment as Cape Governor is one of a dedicated and hard-working servant of the Crown.

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<sup>94</sup>C.W. Hutton (ed.), The Autobiography of the late Sir Andries Stockenström, Vol. II, p.41.

<sup>95</sup>Ibid.

CHAPTER TWO

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D'URBAN'S EARLY CAREER

D'Urban's career prior to 1834 is instructive for a number of reasons. Before his appointment as Governor of Antigua, Montserrat and Barbuda in 1820, his experiences were exclusively of a military nature. D'Urban's years in the Iberian Peninsula during the Napoleonic Wars taught him the practicalities and logistics of soldiering, skills which he later ably displayed in the course of the Cape frontier war of 1834-5. These years also imparted a certain caution to his military actions, for the future Cape Governor did not always display the slow and vigilant care that Smith<sup>1</sup> enjoyed ridiculing in 1835.<sup>2</sup> D'Urban's military caution in his later life probably derived from his humiliation<sup>3</sup> in 1812 when his Portuguese cavalry, far in the van of the allied army's advance on Madrid, broke and fled during a clash with the French at the village of Majalahonda.

The war against Napoleon resulted in D'Urban's material success. A mere lieutenant-colonel without expectations in 1808 he emerged in 1819 with the rank of major-general and a string of awards.<sup>4</sup> Moreover, D'Urban's long war service in the Peninsula meant that he was a member

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<sup>1</sup>Sir Henry (Harry) George Wakelyn Smith (1787-1860), a professional soldier of long standing and fame, and High Commissioner and Governor of the Cape Colony 1847-52. See D.S.A.B., Vol. II, pp.673-7.

<sup>2</sup>See, for example, Smith to his wife, 11 April, 1835: "[D'Urban] is far too scientific for this guerrilla warfare, always full of combinations and reserves, and rears and fronts, and cautions and dangers, and false movements, and doubts and fears. The greatest fault one can be guilty of is dash. Yet it is the thing, and there is nothing to fear." (Smith's emphasis.) Quoted in G.C. Moore Smith (ed.), The Autobiography of Lieutenant-General Sir Harry Smith, p.731.

<sup>3</sup>See pp.35-6

<sup>4</sup>For example the awards of Knight Commander of the Most Honourable Military Order of the Bath, Knight Commander of the Royal Military Guelphic Order, Knight Commander of the Antient [sic] and Most Noble Order of the Tower and Sword, Major General in the Portuguese Service, Colonel in the Spanish Army. See I.J. Rousseau, The Peninsular Journal of Major-General Sir Benjamin D'Urban, title page.

of that select group of army officers, later romanticised as a 'band of brothers',<sup>5</sup> who had seen similar service and who, in the post-Napoleonic era, were sent out to administer and protect Britain's greatly increased empire. For ever after these soldiers retained a deep sense of comradeship for their colleagues and leaders, particularly their commander-in-chief, the Duke of Wellington, and displayed a cliquishness which was the result of shared hardships and dangers. Between 1828-30 Wellington filled the post of Prime Minister, and during Peel's<sup>6</sup> first Ministry he was Foreign Secretary. Through the whole structure of British administration and politics the threads of this comradeship were ultimately woven.

D'Urban served his apprenticeship as a colonial Governor first in the West India sugar islands of Antigua, Montserrat and Barbuda, later as Governor of the Two Rivers - Demerara and Essequibo - finally presiding over their constitutional union with Berbice in 1831 to form British Guiana. These years gave him the valuable experience of governing slave owning colonies, and with the three provinces of British Guiana, former Dutch colonies whose laws had been guaranteed by Articles of Capitulation in 1803. Some of the problems D'Urban was later to encounter at the slave owning and former Dutch colony of the Cape were not foreign to him.

D'Urban was the sixth full Governor of the Cape of Good Hope to hold that position<sup>7</sup> since the Colony's second British occupation in January 1806. With the exception of the Earl of Caledon,<sup>8</sup> all D'Urban's predecessors, like D'Urban himself, had been military men, and of these only Lord Charles Somerset<sup>9</sup> had not seen active service abroad. The

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<sup>5</sup>Jane Eliza Hasted, The Gentle Amazon, p.8.

<sup>6</sup>Sir Robert Peel (1788-1850), English parliamentarian, prime minister, and leader of the Conservative Party, known principally for his implementation of Catholic emancipation. See D.N.B., Vol. XLIV, pp.210-33.

<sup>7</sup>See T.R.H. Davenport, South Africa: A Modern History, Table 1, p.403, for the full list of governors together with the more important acting governors.

<sup>8</sup>Earl of Caledon, Governor of the Cape, May, 1807 - September, 1811.

<sup>9</sup>Lord Charles Somerset, Governor of the Cape, April, 1814 - March, 1826, except for a period of leave in England from January, 1820 - November, 1821.

others had all served in the British army in some theatre of the Napoleonic Wars, and with the exceptions of Grey<sup>10</sup> and Meade,<sup>11</sup> all had served in some phase of the war in the Iberian Peninsula. Napier,<sup>12</sup> Maitland<sup>13</sup> and Smith who followed Durban as Cape Governors had also served in Spain under Wellington, and a few, again like D'Urban himself, and Smith, had served continuously in the Peninsula between 1808 and 1814.

In colonies of conquest like the Cape, executive civil and military powers were often vested in the hands of one of these soldier-administrators. Although most, if not all, performed their civil duties conscientiously and were held responsible to an observant Crown for their acts, there was an inconsistency in the fact that a country so concerned with constitutional and civil liberties as Britain, and with so strong a dislike for militarism and standing armies, should allow so much of her empire to be ruled directly by what were, after all, professional soldiers.

After the Napoleonic Wars and the demobilisation of Britain's forces, expediency obviously played a vital role in the employment of a large officer cadre. Moreover, colonies like the Cape with a large, exposed and troublesome frontier called for the services of a professional soldier in the highest councils. But at the Cape it had also proved expedient to appoint a soldier to both civil and military command after Caledon, the only civilian to hold the position of Governor and Commander-in-Chief of His Majesty's forces in the Colony before 1854, had persistently clashed<sup>14</sup> with General Grey, their commanding officer. In part the absence of a local legislative assembly at the Cape had exacerbated the situation.

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<sup>10</sup>General Sir Henry George Grey, acting-Governor of the Cape, January - May, 1807.

<sup>11</sup>General Robert Meade, acting-Governor of the Cape, October, 1813 - April, 1814.

<sup>12</sup>General Sir George Napier, Governor of the Cape, January, 1838 - March, 1844.

<sup>13</sup>General Sir Peregrine Maitland, Governor of the Cape, March, 1844 - January, 1847.

<sup>14</sup>See C.H.B.E., Vol. VIII, pp.203-5.

In the old American and West Indian colonies the limits of the military authority wielded by the Governor and the senior military officer had been clearly delineated with regard to the Governor's constitutional position vis-à-vis the local legislative assembly, which also voted supplies for military defence, and the senior military officer's accountability to the General Commanding-in-Chief and the War Office in Britain.<sup>15</sup> At the Cape, Britain met the cost of imperial defence, and while the Governor's powers had been great initially they were slowly limited in proportion to the greater freedom the Crown was prepared to accord its Cape subjects.

In 1834 D'Urban was to be the instrument of the Crown's will in implementing constitutional change.

D'Urban was born in February, 1777, in Halesworth, Suffolk, the youngest and only surviving son of the local doctor and his wife, Elizabeth Gooch, the daughter of a surgeon. Little is known of D'Urban's childhood, apart from the fact that his father died when he was five. D'Urban did not follow in the family medical tradition, but in 1793 bought into the 2nd Dragoons as a cornet. He was to spend the next twenty-two years in an army almost continuously at war with France, and one whose glaring inadequacies were shown up in a series of disastrous campaigns in Europe and the West Indies. In 1794, with the rank of captain, D'Urban accompanied his regiment to Westphalia shortly after the retreat of the British Army from the Netherlands. In the following year he exchanged into the 29th Dragoons in order to accompany Sir Ralph Abercromby<sup>16</sup> on the ill-fated expedition of 1795-6 to the West Indies, one of a series of campaigns derisively described as "filching sugar islands".<sup>17</sup> In this sphere of operations yellow fever and malaria cost the British more troops than enemy action,<sup>18</sup> and in 1797

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<sup>15</sup>Ibid.; see also D.J. Murray, The West Indies and the Development of Colonial Government, 1801-1834, pp.13-31.

<sup>16</sup>Sir Ralph Abercromby (1734-1801), a professional soldier who, like Sir John Moore, did much to improve the quality and discipline of Britain's army during the dark days before the Peace of Amiens. See D.N.B., Vol. I, pp.43-6.

<sup>17</sup>Richard Glover, Peninsular Preparation, p.3.

<sup>18</sup>The noted military historian, Sir John Fortescue, estimated that during the period 1793-6 the British Army suffered 80,000

D'Urban returned to England in command of the remnant of his regiment. Apart from a short period of five months in 1799 as an aide-de-camp to Major-General St. John,<sup>19</sup> once again in the West Indies, D'Urban spent the period 1797 to mid-1805 in England, initially as a newly appointed major in the Warwickshire Fencibles, and later, from April, 1800, as a student at the newly established Royal Military College. Here D'Urban showed the capacity for staff work which was later to serve his career and the British cause in Spain so well. His aptitude for the work was so great that in 1803 he was appointed superintendent of the junior department of the College.

Early in 1805 D'Urban exchanged into the 89th Regiment, and was promoted lieutenant-colonel by brevet, but he soon resigned his staff appointment at the College in order to accompany his regiment on active foreign service, the true vocation of the professional soldier, which alone could nurture reputations and further careers. He proceeded to Hanover with the expeditionary force, but the campaign proved to be another lack-lustre affair for British arms, and one which again demonstrated the impossibility of putting a small British force into a part of the continent where all strategic advantages would be held by the vastly superior French military machine.

In December, 1806, D'Urban was made lieutenant-colonel of the 9th Garrison Battalion, and in October, 1807, of the 1st West India Regiment, but effectively, he was attached to the staff of the Quarter-master-General's Department in Ireland. Here he performed various staff duties, notably the establishment of a system of semaphore communications between Dublin and the southern and south-western Irish ports. In November, 1807, D'Urban was appointed assistant quartermaster-general in Dublin, but was soon transferred to Limerick and finally to Curragh under Sir David Baird.<sup>20</sup> It was in this capacity and with Baird that

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casualties, including 40,000 dead, "the latter number exceeding the total losses of Wellington's army from death, discharges, desertion and all causes from the beginning to the end of the Peninsular War." History of the British Army, Vol. IV, p.496.

<sup>19</sup>General Frederick St. John (1765-1844), soldier. See A List of the Officers of the Army...1829, p.3.

<sup>20</sup>Acting-Governor at the Cape, January, 1806 - January, 1807.

D'Urban arrived off Corunna in northern Spain in October 1808. In the Iberian Peninsula the tarnished reputation of the British army was to be restored, and the bitter lessons learnt since 1793 put into practice.

The process of rehabilitating the army and making it better able to fight a modern war along Napoleonic lines had begun in the dark days when rampant French militarism, spurred on with revolutionary fervour, had defeated all opposition. The establishment of the Royal Military College had been part of this process, but the improved training and consequent effectiveness of British troops owed much to the foresight and reforming energy of Frederick, Duke of York,<sup>21</sup> who at the age of 31 was appointed Commander-in-Chief of the Army in February, 1795. Under the Duke of York a firmer control was taken over the sale of commissions.<sup>22</sup> This system had been so greatly abused between the end of the American War in 1783 and the beginning of the French Revolutionary Wars in 1793, that for promotion "no science was required, no service, no previous experience whatever: the boy let loose from school the last week might in the course of a month be a field officer, if his friends were disposed to be liberal of money and influence."<sup>23</sup> To prevent this the Duke of York laid down that sixteen should be the minimum age for purchasing an ensigncy, that no man could purchase the rank of captain until he had been a subaltern for at least two years, and no captain purchase the rank of major until he had served six years. When taken with his other reforms, York's regulation of the sale of commissions meant that no man could buy a rank whose duties he had not learnt. Such fundamental reforms were to exert a profound influence on the quality of Britain's army.

Where previously Britain had been forced to fight France in Europe at a strategic disadvantage, the Iberian Peninsula gave her small

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<sup>21</sup>Frederick Augustus, Duke of York, and Albany (1763-1827), second son of George III, appointed commander-in-chief of the British army 1798-1809, and again 1811 until his death. York is principally remembered for his reform of the British army. See D.N.B., Vol. XX, pp.233-5.

<sup>22</sup>Except for ranks above that of lieutenant-colonel, which were by appointment, the most common means of promotion in the British army at this time, and indeed until 1870, was by the sale of commissions. See A.K. Millar, Plantagenet in South Africa, pp.16-18.

<sup>23</sup>Glover, Peninsular Preparation, p.148.

but re-organised army the ideal arena in which to challenge France's supremacy on land. With Lisbon as a secure port, protected by the might of the British Navy, the army was assured of a continuous flow of provisions, equipment and reinforcements and reliable communications with England. The French had no such secure base, and accustomed to having their armies live off the land, they found the Peninsula harsh and inhospitable. Moreover, their overthrow of the Spanish royal family and the atheism of the French Empire, aroused the passions of the traditionally xenophobic and Catholic Spanish peasantry who keenly resented the imposition of Joseph Bonaparte as their king. Although the initial revolts in Madrid in May, 1808, and in Lisbon in the following month were brutally suppressed by the French, they presaged the beginning of a bitter guerrilla war which occupied the attention of thousands of French soldiers, and made communication with France a major military operation.

At first the British intended mounting only a diversionary attack in Portugal under Sir Arthur Wellesley to help the Spanish patriots. But his victories at Roliça and Vimiero in August, 1808, and the expulsion of the French from Lisbon, even if by means of the controversial and highly unpopular Convention of Cintra,<sup>24</sup> persuaded the harassed and hard-pressed Perceval Ministry to support a further expedition to the Peninsula with Wellesley as commander.<sup>25</sup>

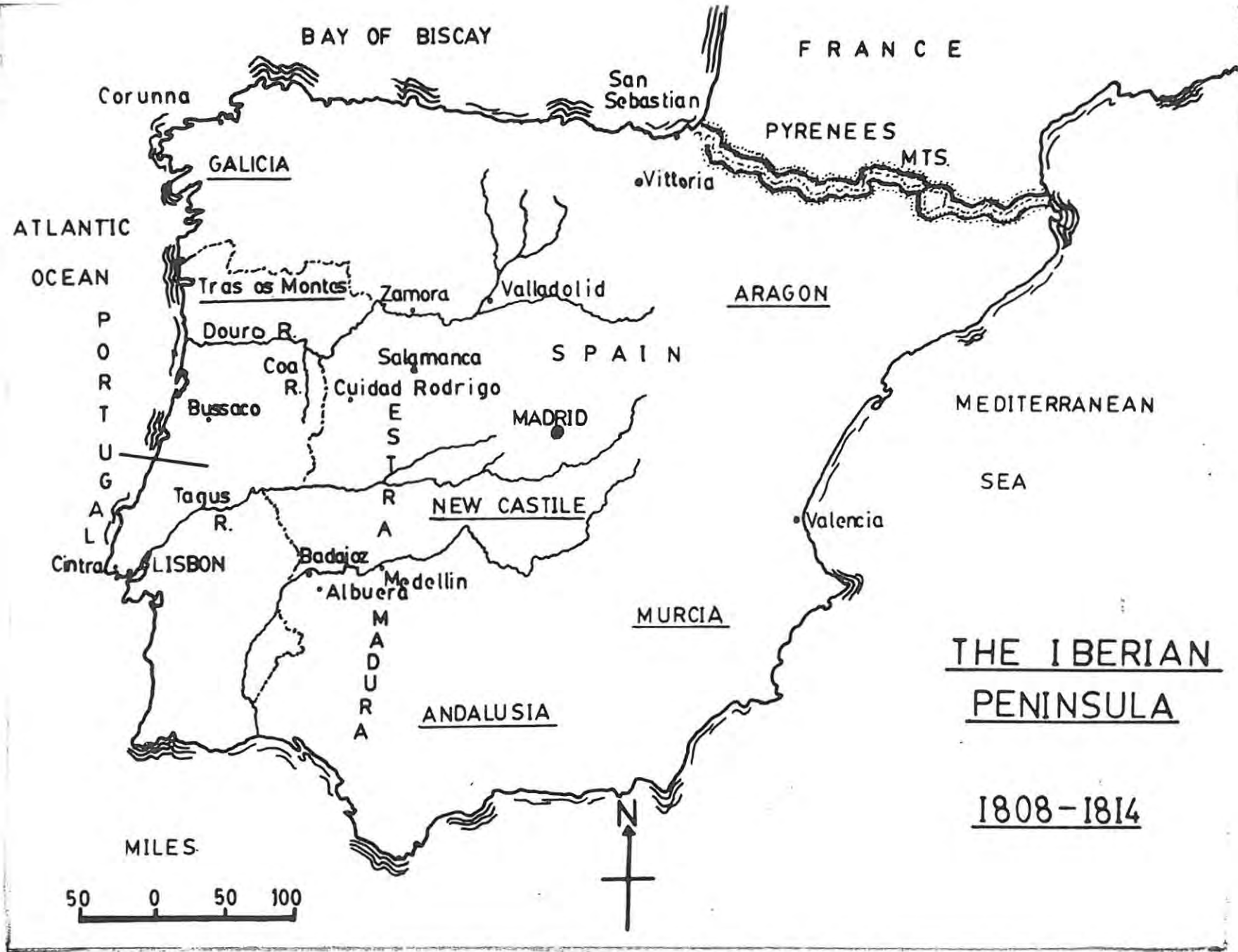
During Wellesley's absence in England the British army had marched into Spain from Portugal under Sir John Moore<sup>26</sup> to assist the Spanish.

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<sup>24</sup>The Convention of Cintra had in fact been arranged by Wellesley's superiors, Lieut.-Generals Sir Hew Dalrymple and Sir Harry Burrard. All three officers were later questioned at a Court of Inquiry held in England between November and December, 1808. No grounds for a court martial were found, but Burrard and Dalrymple lost the confidence of the Ministry. Wellesley, on the other hand, "was marked out as a man of energy, resource, and determination, eminently fit to be employed again." Charles Oman, A History of the Peninsular War, Vol. I, p.300.

<sup>25</sup>This decision was greatly facilitated by the Foreign Secretary's (Castlereagh) strong support for a plan proposed by Wellesley that with a Portuguese Army raised by the Portuguese Regency and trained and officered by the British, 30,000 British troops could hold Lisbon against three times as many French. Perceval's Ministry was in power from 1809-12.

<sup>26</sup>Sir John Moore (1761-1809), professional soldier principally remembered for introducing new standards of discipline and training and developing the famous Light Division of Peninsula War fame. See D.N.B., Vol. XXXVIII, 366-71.



THE IBERIAN  
PENINSULA

1808-1814

Moore had skilfully avoided being trapped by Napoleon who had personally taken charge of the situation. But he had been forced to retreat 300 miles across northern Spain to the port of Corunna, where in January, 1809 a major although indecisive battle had been fought against the French Marshal Soult before the remnants of the British army had embarked for England.

Upon reaching Corunna on 13 October, 1808, D'Urban had been detached to the force left under Sir John Cradock<sup>27</sup> in Lisbon. He travelled to Lisbon overland but his Journal revealed his secret determination "to make every effort not to lose the campaign, and therefore [I] chose to go by the route of Salamanca and Ciudad Rodrigo, to meet Sir John Moore's head quarters, and try to remain in some shape with the active army."<sup>28</sup>

D'Urban's hopes were frustrated and while the main British army advanced, he was instructed to "reconnoitre the country for some distance in front and rear of the Coa [River near Ciudad Rodrigo so that the] resources, roads of communication both within Portugal and Spain, and its natural features of defence should at least be generally known..."<sup>29</sup> He thus performed the task for which he had been trained at the Royal Military College and which he had developed in Ireland. The report D'Urban completed on 28 November, 1808, was to be of material assistance later in the war when Ciudad Rodrigo was retaken from the French in 1812. After completing the reconnaissance of the Coa River, D'Urban in mid-December, 1808, was instructed by Colonel Donkin,<sup>30</sup> deputy quartermaster-general of the British army in Portugal, "to reconnoitre to Rosmanihal and along the Tagus [River] to Villa Velha as a portion of the General Reconnaissance..."<sup>31</sup> an exercise which was commenced in expectation of a retreat of Moore's army from Spain to Lisbon. Once again the intelligence gained in these early days proved

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<sup>27</sup> Later Governor of the Cape, September, 1811 - October, 1813.

<sup>28</sup> I.J. Rousseau (ed.), The Peninsular Journal of Major-General Sir Benjamin D'Urban, p.5.

<sup>29</sup> Ibid., p.11. See Map I.

<sup>30</sup> Later Sir Rufane Donkin, acting Cape Governor, January, 1820 - November, 1821.

<sup>31</sup> Rousseau, Peninsular Journal, pp.17-18.

valuable when two years later the British Army fell back on Lisbon behind the triple lines of fortification known as the lines of Torres Vedras.

In early January, 1809, D'Urban was attached to the Lusitanian Legion<sup>32</sup> under Sir Robert Wilson.<sup>33</sup> His Journal entry for 7 January, 1809, read: "He [Wilson] is very deficient in staff officers, and has requested me to remain with him for a time. I have complied and hereby consulting my own inclinations, for here at least is a chance of something being done, at least one is near the enemy. I have written to Sir John Cradock and to Col. Donkin for permission to do this."<sup>34</sup> At this time Moore was in the last stage of his retreat towards Corunna, and in Portugal rumours were rife of approaching French armies. Once again a part of D'Urban's duties was to reconnoitre forward and attempt to gauge the accuracy of such reports, and also to stiffen the resolve of the provincial Spaniards. His entry for 19 January read: "It becomes necessary both to give confidence to the people here...as well as to know really what the French are about."<sup>35</sup> D'Urban also acted as a liaison link with the Spanish forces in Estremadura, a Spanish province on the Portuguese frontier, and he was consequently present at the battle of Medellin (28 March, 1809) when the French Marshal Victor routed the Spanish Army of Estremadura. During the action D'Urban acted with distinguished bravery, and was mentioned in despatches for being amongst the first to reach and destroy a French battery at a critical stage of the battle.<sup>36</sup> In a note in his Journal, D'Urban mildly wrote that the Spanish general Cuesta, having been ridden down by his own routed cavalry, "his nephew and I pulled him out from under the horses' feet, bruised and nearly senseless, remounted him and sent him off

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<sup>32</sup>A body of soldiers raised from Portuguese refugees in England and officered by the British.

<sup>33</sup>Sir Robert Thomas Wilson (1777-1849), commander of the Lusitanian Legion in Portugal, later military attaché to the British ambassador in St. Petersburg at the time of the French invasion in 1812, and finally member of Parliament. See D.N.B., Vol. LXII, pp.126-31.

<sup>34</sup>Rousseau, Peninsular Journal, p.20.

<sup>35</sup>Ibid., p.23.

<sup>36</sup>See Oman, History of the Peninsular War, Vol. II, p.162.

under the charge of a Sergeant..."<sup>37</sup>

Shortly after this battle, D'Urban was ordered to Lisbon by Cradock to serve under Viscount Beresford,<sup>38</sup> who had been ordered to re-organise the Portuguese army for service alongside their English allies. Beresford had particularly requested D'Urban's appointment as quartermaster-general of the Portuguese army. D'Urban's Journal entry for 14 April, 1809, read: "Joined the Marshal at Thomar. He has received me in a very agreeable and flattering manner, and appointed me Colonel and Quartermaster-General of the Portuguese Army",<sup>39</sup> which he was later to describe as the "...new levies...of a nation that had sunk in Military Renown."<sup>40</sup>

D'Urban threw himself energetically into his new task, but as with all quartermasters in the Peninsular War, he encountered enormous problems in providing adequate provisions for the troops, the more so because those Portuguese brigades not incorporated with British divisions and consequently supplied from British stores were at the mercy of an inefficient and corrupt Portuguese commissariat. D'Urban's Journal entry for 4 October, 1810, declared exasperatedly: "The Portuguese Commissariat infamous beyond all description."<sup>41</sup> And again on 26 January, 1811, he wrote:

The infamous neglect of this [Portuguese] Government in furnishing supplies for the Portuguese troops is every day more apparent as well as to the villainy of the Commissaries they employ. They make 9 rations of bread out of the same quantity of flour that provides 5½ to the British bakers.<sup>41a</sup>

The balance had been stolen. The undercurrent of relief in his Journal entry of 24 May, 1810, remained unexpressed:

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<sup>37</sup>Rousseau, Peninsular Journal, p.48.

<sup>38</sup>William Carr Beresford, Viscount Beresford (1768-1854) was primarily responsible for re-organising the Portuguese Army 1809-1814, a feat which led Wellington to declare he should succeed to the command in the Iberian Peninsula, not because he was a great general, but because he could 'feed an army'. See D.N.B., Vol. IV, pp.330-5.

<sup>39</sup>Rousseau, Peninsular Journal, p.50.

<sup>40</sup>Ibid., p.229.

<sup>41</sup>Ibid., p.153.

<sup>41a</sup>Ibid., p.179.

The arrangement settled for the English Commissariat supplying the beef ration to the Portuguese troops of the Division of the Beira 16,540 men. The Portuguese Commissaries to give receipts for the quantity issued and the expense to be settled between the two Governments. 42

Such good fortune was rare, and the piecemeal expedients used to keep the army supplied and in the field were emphasised in D'Urban's Journal entry of 1 - 6 February, 1812:

...Marshal Beresford set out for Lisbon...to ascertain the actual proportion of our Means to our Expenditure; an investigation which strange to say, has never been fully entered into hitherto, and which now becomes imperiously necessary, for the machine, after many expedients to keep it going, at length defies them altogether, as might well be foreseen, and threatening to stop altogether. 43

Shortly after, he wrote: "After a perfect investigation it appears that the expenditure must be nearly £6,000,000. The means at present £3,500,00. Nous verrons."44

While Beresford and D'Urban struggled to re-organise and maintain the Portuguese army, Wellesley defeated the French Marshal Soult's advance on Lisbon at Villa Nova in May, 1809, and two months later routed Joseph Bonaparte and Marshal Victor at Talavera<sup>45</sup> in Spain. A lack of adequate supplies, and the collapse of all efforts to co-ordinate plans with arrogant Spanish generals forced the British to retreat into Portugal. At Bussaco in September, 1810, Wellington again defeated the French, under Marshal Massena this time, and Beresford's re-organised Portuguese army fought alongside their British allies. They acquitted themselves so well that Beresford was awarded the honours of Knight of the Bath, Knight of the Tower and Sword of Portugal, and Conde de Trancoso in the peerage of Portugal. Despite this victory, the allies fell back within the prepared lines of Torres Vedras in

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<sup>42</sup>Ibid., p.107.

<sup>43</sup>Ibid., p.238.

<sup>44</sup>Ibid., pp.238-9.

<sup>45</sup>July, 1809. After Talavera Wellesley was elevated to the peerage as Viscount Wellington.

October, 1810, and watched while another French advance, this time under Marshal Massena, swirled at its base, marked the high water mark of the French offensive in the Peninsula and indeed in Europe,<sup>46</sup> and finally ebbed in November, 1810.

During the subsequent British offensive in 1811, D'Urban acted as Beresford's chief-of-staff when the latter was given command of a combined allied force and ordered to take the fortress of Badajoz, the key frontier town on the southern road into Spain, while Wellington once again defeated Massena's drive on Portugal at Fuentes de Onoro on 5 May, 1811. Beresford, however, was forced to raise the siege of Badajoz by a rapid French advance and he prepared to meet Soult at Albuera. D'Urban described the subsequent contest (16 May, 1811) as "the hottest action of the Peninsular War and unequalled in the memory of the oldest soldier."<sup>47</sup> The action was bloody and indecisive, but Soult was forced to retire. Beresford was severely criticised for his tactical handling of the situation, and was ordered back to Lisbon to continue training the Portuguese army. Later, in 1817, D'Urban, a loyal subordinate, had privately printed in England a defence of Beresford's handling of the situation, entitled "Report of the Operations of the Right Wing of the Allied Army under Field Marshal Sir William Carr Beresford in the Alentejo and Spanish Estremadura during the campaign of 1811".

For the rest of 1811, Beresford and D'Urban remained in Lisbon, while Marshal Marmont replaced Massena. Spanish guerrillas continued to ravage French communications in return for barbaric reprisals and French and British armies marched, counter-marched and sought a strategic advantage for the next round of the contest. The year 1811 had been a bad year for French arms in Spain; they had lost or had failed to deliver a death blow to their opponents in four pitched battles. D'Urban estimated they had suffered 80,000 casualties.<sup>48</sup> Moreover, in 1812 Napoleon, preparing for war against Russia, reduced his army in Spain, and ordered his marshals to conquer the Spanish

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<sup>46</sup>Oman, History of the Peninsular War, Vol. III, p.436.

<sup>47</sup>Rousseau, Peninsular Diary, p.215.

<sup>48</sup>Ibid., p.230.

Province of Valencia, thus further reducing the French armies on the Portuguese frontier. By 1812 the initiative had passed to Wellington. Ciudad Rodrigo, on the northern road to Spain, fell in January, 1812, after a siege of 11 days. Badajoz fell in April, 1812, and the siege was costly in lives and marked by general rapine on the part of the British victors. Thereafter Wellington decided an advance along the northern road into Spain would be the best means of dividing Spain, and the French, into two.

Wellington's Salamanca campaign gave D'Urban his first independent command.<sup>49</sup> With a full Portuguese cavalry brigade of 800 men, D'Urban was ordered to cover the advance of several regiments of Spanish militia on the town of Zamora on the Douro River, and to act "against the rear and communications of the enemy as occasion may serve."<sup>50</sup> The town contained an outlying French garrison to protect Marmont's right flank. Astorga, which protected his rear, was to be attacked by the Spanish Army of Galicia. Both attacks were intended as diversions while Wellington applied pressure to the main French army. While the Army of Galicia and the militia regiments achieved disappointing results because of their tardiness, D'Urban's bold use of his cavalry "to execute all the Partisan annoyances I can"<sup>51</sup> caused the French to abandon much of the northern bank of the Douro and to live off their supplies rather than by their customary foraging.<sup>52</sup> D'Urban completed "a very daring exploration round the rear of Marmont's army, almost to

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<sup>49</sup>Oman, History of the Peninsular War, Vol. V, p.339.

<sup>50</sup>Rousseau, Peninsular Journal, p.257. D'Urban was not keen to undertake command of the force detached from the main army for fear of missing a major engagement. He wrote: "I have the consolation that although I did not venture to take charge of it, for a Soldier has no right to choose Service, yet I received it with as much reluctance as was consistent without starting objections." (p.261.)

<sup>51</sup>Ibid., p.263.

<sup>52</sup>See Oman, History of the Peninsular War, Vol. V, p.387. D'Urban's observations on the use of cavalry for guerrilla campaigning are interesting. Rousseau, Peninsular Journal, p.261: "With a little Money one might live with a small Corps anywhere in Spain...a small Partizan Corps can't act with effect upon an Enemy's Rear, Flanks and Communication without the good will of the Peasantry, without that there can be no secrecy, without secrecy there can be no success."

the gates of Valladolid",<sup>53</sup> and rejoined Wellington's main army on 18 July, 1812. D'Urban was thus not as inexperienced in the methods and usages of guerrilla warfare as Smith supposed him to be.

D'Urban distinguished himself at the Battle of Salamanca on 22 July, 1812, in the initial and successful cavalry charge against the infantry of Marmont's vanguard, which routed them. Although his subsequent account in his Journal was contained in a few self-effacing and non-committal lines, Hardinge<sup>54</sup> declared:

Our friend D'Urban led the Brigade on, with the intelligence and bravery that always ensures success, and he has now added to his merit as a Staff Officer, an executive reputation of conducting Troops in the Field, which was alone wanting to complete his military character.<sup>55</sup>

Following the victory of Salamanca, Wellington pushed on to Valladolid, and then, in the face of minimal opposition because the French were occupied elsewhere in Spain, he marched on Madrid. D'Urban, with his Portuguese cavalry, a troop of Horse Artillery, one brigade of German Light Infantry and a German brigade of Heavy Cavalry, were ordered forward "to feel [the] way forward and learn the intentions of the enemy."<sup>56</sup> His earlier successes had made him too bold; the chastisement he received as a result constituted a military lesson he never forgot.

In his haste to press forward D'Urban left the rest of the vanguard behind and pushed on with the Portuguese to within 7 miles of Madrid. At the village of Majalahonda, a desperate French cavalry attack of over 2,000 men suddenly materialised. Oman declared that the wisest policy would have been to fall back on the Germans, "but D'Urban was a daring leader, honourably ambitious of distinction, and the excellent behaviour of his brigade at Salamanca had inspired him with an exaggerated

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<sup>53</sup>Oman, *op.cit.*, p.409.

<sup>54</sup>Sir Henry Hardinge, first Viscount Hardinge of Lahore (1785-1856) saw service in the Peninsula, India and Parliament and became General Commanding-in-Chief of the Army on the death of Wellington in 1852. See D.N.B., Vol. XXIV, pp.342-5.

<sup>55</sup>Rousseau, Peninsular Journal, p.273.

<sup>56</sup>*Ibid.*, p.278.

confidence in their steadiness."<sup>57</sup> The Portuguese cavalry broke. D'Urban was obliged to cut his way out and rally his cavalry, only to have them break a second time. The French were only prevented from overwhelming the Germans by the timely arrival of elements of the main army. Wellington was clearly annoyed by the conduct of the Portuguese and he coldly declared: "I shall not place them again in situations in which, by their misconduct, they can influence the safety of other troops."<sup>58</sup> D'Urban was shocked and disappointed: "...they left me alone and vanished from before the helmets like leaves before the autumn wind",<sup>59</sup> he wrote. D'Urban's conduct, however, was exonerated. Wellington was opposed to any collective punishment of the Portuguese involved as Beresford suggested, and declared: "...a body commanded by such a man as D'Urban, even though they will not fight, are better than none." But he reiterated: "...they must not be employed again alone, or with our cavalry, who gallop too fast for them."<sup>60</sup> It is quite probable that much of D'Urban's caution in his later handling of military affairs at the Cape derived from this incident at Majalahonda, for he had narrowly escaped the dishonour which could have ruined his career.

Wellington entered Madrid on 12 August, 1812, and after learning that Marshal Soult was still occupied in the southern province of Andalusia, he moved on with his main force to besiege the fortress of Burgos on the main northern road to France. The French, however, were far from defeated, and with almost twice as many men throughout Spain as the British, they regrouped and retook Madrid in early November, 1812. Wellington was forced to retreat to Ciudad Rodrigo, and the Portuguese frontier. During the following winter, D'Urban concentrated on "bettering the Commissariat, Discipline, Organisation and Drill" of the Portuguese army, and he recorded a singular victory on 21 January, 1813: "...I succeeded at length in overthrowing the villainy of the

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<sup>57</sup>Oman, History of the Peninsular War, Vol. V, p.510. My emphasis.

<sup>58</sup>Quoted by Oman, *ibid.*, p.513.

<sup>59</sup>*Ibid.*

<sup>60</sup>Quoted in Rousseau, Peninsular Journal, p.282.

Commissariat so far as to effect good subsistence for the Men and Horses."<sup>61</sup> With memories of Majalahonda still fresh, his attitude to the re-equipped and re-organised cavalry was guarded: "...when all is done...the weapon may have been cleaned, but I won't be responsible for its temper."<sup>62</sup>

With the failure of his Russian campaign, Napoleon was forced to reduce further the number of French troops in the Peninsula in order to stem the disintegration of his Empire in central Europe. By the end of April, 1813, and reinforced from Britain, Wellington was ready to take the offensive into Spain once again. He outflanked the main French forces on the Douro River by marching through the wild and virtually trackless province of Tras os Montes, and pushed towards the Bay of Biscay where his army could be resupplied from the sea over considerably shortened lines of communication. Initially D'Urban, as a commissariat officer of great experience, was sent forward<sup>63</sup> together with engineering specialists into the Tras os Montes to determine the feasibility of the line of advance and he had approved of the plan. The French were caught by surprise and withdrew all the way to Vittoria, a hundred miles from the French frontier, before they turned to fight. They were routed, and Wellington had effectively ejected the French from Spain and opened the way for an invasion of France. A spirited French counter-attack was driven back during the battles of the Pyrenees (July, 1813), but Wellington delayed in Spain, anxious to subdue the fortress of San Sebastian in his rear, and careful to determine first that the French were too deeply committed on the Rhine and elsewhere to be able to turn their attention against Britain's only army, and one which by Napoleonic standards, was small.

In October, 1813, Wellington again took the offensive, and forced the river lines of Bidassoa, Nivelle (10 November, 1813), and Nive (9-13 December). In early February, 1814, he defeated the French at Orthez, and allowed Beresford with a flying-force to reconnoitre forward and enter the increasingly disaffected city of Bordeaux, France's third largest city, in March, 1814.<sup>64</sup> The last battle took place at

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<sup>61</sup>Ibid., p.303.

<sup>63</sup>Ibid., p.304.

<sup>62</sup>Ibid.

<sup>64</sup>Ibid., p.318.

Toulouse on 10 April, 1814, and all involved were unaware that Paris had fallen and Napoleon had abdicated at the end of March.

While Beresford briefly returned home to England and Wellington left to attend the peace negotiations in Paris, D'Urban was instructed to march the Portuguese army of 28,000 men back to Lisbon, a task which he proudly declared was accomplished

without leaving anything behind, without any instance of disorder or irregularity, and completing 6 years of unbroken service never having been absent one day from my duty either from sickness, leave or absence or any other cause whatever, having taken part in 10 battles and sieges. <sup>65</sup>

In recognition of his services during the war, D'Urban in 1815, was created a Knight Commander of the Most Honourable Military Order of the Bath, and he received a gold cross and five clasps for the nine battles and sieges at which he had been present, namely Bussaco, Albuera, Badajoz, Salamanca, Vittoria, Pyrenees, Nivelle, Nive and Toulouse. <sup>66</sup>

For the next two years D'Urban remained in Lisbon, and watched in dismay as the army that he and Beresford had so laboriously created, and particularly its British officers, became the targets of official ingratitude and intrigue. D'Urban believed it to be the prelude of an attempt "to drive out of the army at one blow the British Commander-in-Chief and the British officers", and to reduce the army to its

former state of wretchedness and Nonentity, as Dangerous to the Power of the Government, and incompatible with it... By consequence an Army officered by High Spirited and Honourable Gentlemen could never long endure that Its country should be oppressed by a Government of such baseness and iniquity. <sup>67</sup>

Written nearly twenty years before D'Urban's bitter clash with Glenelg, this passage throws some interesting light on that event. The tone of

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<sup>65</sup>Rousseau, Peninsular Journal, p.327.

<sup>66</sup>D'Urban was present at a 10th battle - Medellin on 28 March, 1809. It was, however, a victory for the French against a predominantly Spanish army, and therefore could not be considered as an honour. The Army list of 1829 (pp.81-97) catalogued 26 victories commemorated with clasps. Beresford, with 7 clasps, and D'Urban with 5 appear as the two officers with the greatest number of honorary distinctions in commemoration of their active service. Only Lord Fitzroy Somerset also had 5 clasps.

<sup>67</sup>Rousseau, Peninsular Journal, p.330.

D'Urban's despatch to Glenelg of 9 June, 1836, dispelled any doubt that he considered the Secretary of State's actions base, iniquitous and performed in conjunction with a dishonourable party.

In March, 1817, D'Urban was ordered to England to take up an appointment as colonel of the Royal Staff Corps, and deputy quartermaster-general at the Horse Guards, duties he assumed in preference to the governorship of St. Lucia. The following year he was created a Knight Commander of the Royal Guelphic Order, and in August, 1819, was promoted to major-general. Although he was later created a colonel of the 51st Regiment in 1829, a move significant in financial terms,<sup>68</sup> D'Urban's military career by that time had given way to a career in colonial administration.

In 1820 D'Urban had been appointed Governor of Antigua, Montserrat and Barbuda. Four years later he was made Governor of the Two Rivers, Demerara and Essequibo, and during the absence of the Governor of Berbice, Henry Beard between March, 1825 and July, 1826 D'Urban administered<sup>69</sup> all Three Rivers, thus presaging their amalgamation in 1831.

Like the Cape, Demerara, Essequibo and Berbice had been Dutch slave owning colonies until occupied by the British in 1796. They had also been returned to the Dutch at the Treaty of Amiens, but shortly thereafter, in 1803, they had been permanently reoccupied. The Articles of Capitulation, dated 18 September, 1803, were generous in order to secure the peaceful transfer of sovereign power and ensure the colony's valuable resources of sugar, coffee, cotton and timber plantations.<sup>70</sup>

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<sup>68</sup>As Hazel King has pointed out in her study, Richard Bourke, p.126, a colonelcy did not mean active military duty "but was a lucrative sinecure. Colonels of regiments working through their military agents, obtained a percentage of the profits from sales of commissions, the supply to their regiments of uniforms, accoutrements and so on. The bestowal of a colonelcy was regarded as a reward for long and faithful service to the army..."

<sup>69</sup>Sir Cecil Clementi, A Constitutional History of British Guiana, p.83.

<sup>70</sup>Patrick Richardson, in Empire and Slavery, p.73, has noted that Britain's occupation of these colonies in 1796 was the beginning of an important period of economic expansion. "In four years cotton production rose from 2,425 bales to 31,433: sugar from 1,483 hogsheads to 10,361: coffee from 1,937,230 lb. to 11,633,136 lb. Even after the

The first Article expressly guaranteed the colonys' laws, mode of taxation, religion and existing institutions, and undertook that no new establishments would be introduced without the consent of its legislature - the Court of Policy.<sup>71</sup> In later years these Articles were to prove a fruitful source of conflict between the Court of Policy, ever watchful for any violation of the colony's guaranteed rights, and the Crown's unqualified assertion of its right to legislate by Order in Council in all colonies of conquest.<sup>72</sup>

D'Urban had been in the colony of Essequibo-Demerara for about one year before he had his first major confrontation with the Court of Policy.

In pursuance of the British Parliament's policy of slave amelioration after May, 1823,<sup>73</sup> the Colonial Office suggested that the Court of Policy, in the first instance, introduce the slave code, but declared the opportunity did not infer a recognition of the Court's claimed power of legislation.<sup>74</sup> The local planter aristocracy believed this a violation of the Articles of Capitulation which had guaranteed their property.<sup>75</sup> The Court of Policy consequently and to D'Urban's displeasure, tried to enact a modified code by its own act and not implement the relevant Order in Council. The Crown was forced to override the Court by its general Order in Council of February, 1830, thereby exercising its claim to legislative control. Such a measure made both the British government and D'Urban thoroughly unpopular. Menezes

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abolition of the slave trade and emancipation this development continued with the other forms of cheaper labour imported from the east."

<sup>71</sup>Laws of Capitulation signed between England and the Batavian Republic, 10 September, 1803, Article I. Quoted by M.N. Menezes, British Policy towards the Amerindians in British Guiana, 1803-1873, p.7. Berbice had its own Council of Government until 1831, but the Articles similarly applied to it. See Clementi, Constitutional History of British Guiana, p.84.

<sup>72</sup>See L.M. Penson, 'The Making of a Crown Colony: British Guiana, 1803-33', T.R.H.S., Vol. IX, 1926.

<sup>73</sup>See Chapter 4.

<sup>74</sup>Penson, 'The Making of a Crown Colony...', pp.26-7.

<sup>75</sup>Menezes, British Policy towards the Amerindians..., p.8.

considered that apart from enforcing Parliament's policy of amelioration and asserting the legislative supremacy of Orders in Council, the Colonial Office tended to allow the Court of Policy wide latitude in its legislative programme, particularly after slave emancipation had brought financial loss to the plantocracy.<sup>76</sup> The Governor thus had the difficult task of maintaining the balance between what the Court of Policy desired and what the Colonial Office would allow, but was reluctant to enforce by its open involvement.

A further source of conflict with the Governor existed in the Combined Court, an institution which under Dutch rule had exercised the powers of taxation and the examination of accounts, and which had been guaranteed under the Articles of Capitulation of 1803. The strength of the Combined Court lay in its large majority, elected principally by the planters. It comprised the four ex-officio members, including the Governor, and four elective members of the Court of Policy, and six colonists elected independently to act as financial representatives. With the exception of these financial representatives, who after 1796 were elected by colonial freeholders, all non-official members were elected by means of a College of Electors or 'Kiezers'.<sup>77</sup> The Kiezers were in turn chosen for life by the planters, although the reforms of Major-General Carmichael<sup>78</sup> reduced this to a mere two years.

The financial power of the Combined Court was potentially overwhelming, but incomplete due to the fact that the colony's revenues were channelled into 'Government' and 'Colony' chests. The former was under direct official control, and usually provided the salaries of the Governor and the colonial service, and met the cost of military defence.<sup>79</sup> Nevertheless, the raising and apportionment of finances provided an omnipresent weapon for the Court of Policy to use against the Governor.

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<sup>76</sup>Ibid., p.246.

<sup>77</sup>C.H.B.E., Vol. 2, pp.160-2.

<sup>78</sup>Governor of Essequibo-Demerara, September, 1812 - May, 1813. For an analysis of Carmichael's reforms see Penson, 'The Making of a Crown Colony...', pp.119-22. Also C.H.B.E., Vol. II, p.162.

<sup>79</sup>C.H.B.E., Vol. II, pp.160-1.

D'Urban's governorship of the Two Rivers was marked by his successful implementation of the constitutional union of Demerara and Essequibo with Berbice. After the capitulation in 1803, the British had governed Berbice as a separate settlement, although its western boundary was contiguous with that of Demerara. In part this was a continuation of the Dutch practice of maintaining Berbice as a separate colony, but by 1831 financial considerations had impressed upon the British government the need for its union with Demerara and Essequibo.<sup>80</sup> D'Urban's successful administration of all three colonies from Georgetown in 1824-6 indicated the feasibility of the scheme. The Colonial Office consequently instructed D'Urban to implement a constitutional union, which he did in July, 1831. Berbice's constitutional system was replaced by that of Demerara; the Court of Policy was enlarged to accommodate Berbice's representatives, and was also granted the formerly disputed power of legislation, although the Crown reserved its right to legislate by means of Orders-in-Council.<sup>81</sup> Three separate colonies were thus replaced by a single entity - British Guiana. As Penson has pointed out,<sup>82</sup> this geographical unity was not the final settlement of British Guiana's unusual constitutional arrangement, but it made the way forward much clearer. The Crown had declared that the principles of the capitulation would be adhered to, except where sufficient reason dictated a departure, and such reasons were to be determined by the Crown.

In spite of the omnipresent conflict between Governor and Court of Policy, D'Urban seems to have been popular with the plantocracy. Such was not always the case, and at least one Governor, Major-General Sir James Carmichael Smyth,<sup>83</sup> caused the planters to petition the Colonial Office for his removal. Prior to D'Urban's departure in May, 1833, he was presented with a gift of plate in acknowledgement of his governorship during a period which had seen the imposition of a policy of slave amelioration and the creation of a single and unified

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<sup>80</sup>Penson, 'The Making of a Crown Colony...', pp.128-9.

<sup>81</sup>Ibid., pp.130-1; also Clementi, Constitutional History of British Guiana, pp.83-98.

<sup>82</sup>Penson, op.cit., p.133.

<sup>83</sup>Governor of British Guiana, May, 1833 - May, 1835.

constitutional structure. Roxborough has discerned in D'Urban's governorship of the Three Rivers of Demerara, Essequibo and Berbice "some considerable stability of character and impartiality",<sup>84</sup> while Penson believed during his period of office there he remained undaunted by either party spirit within the colony or the disapproval of the Colonial Office. "He preferred to risk rebuke rather than endanger the colony. And to him is due in large measure the peaceful character of the revolution."<sup>85</sup>

These words sound an interesting echo in D'Urban's frontier settlement of 1835 at the Cape of Good Hope in which he put the military security of the Colony as his first consideration. But as a result of his methods and in the prevailing mood of the British Parliament, D'Urban did more than risk rebuke; he made it unavoidable. It is possible that the immensity of the problem at the Cape in 1835, requiring qualities far beyond those called forth by any problems in British Guiana, led D'Urban to lose some of that detached and objective command which had assisted his South American governorship. Yet in 1833, with all this still in the future, it seems probable that D'Urban's successful administration of the former Dutch colonies comprising British Guiana made him a suitable choice in the eyes of the Colonial Office to be commissioned Governor of another slave owning and former Dutch possession - the Cape of Good Hope.

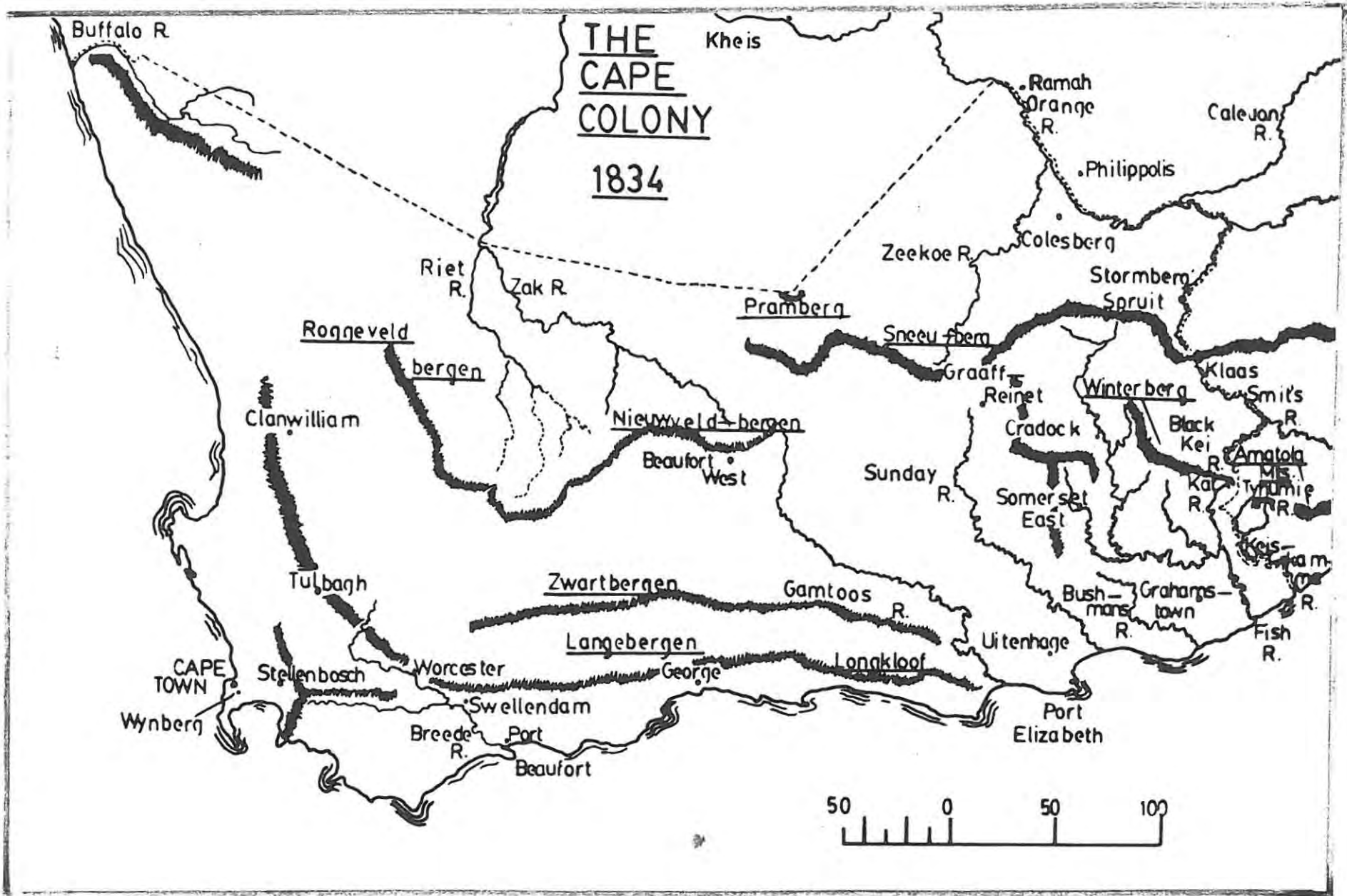
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<sup>84</sup>James Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers of the Cape of Good Hope'.

<sup>85</sup>Penson, *op.cit.*, p.125.

CHAPTER THREE

THE CAPE OF GOOD HOPE : OFFICIAL, FINANCIAL,  
AND HUMANITARIAN CHECKS ON THE GOVERNOR



Almost nineteen years after the final defeat of Napoleon at Waterloo and the subsequent peace of Vienna had established Great Britain as the world's foremost industrial, commercial and colonial power, Sir Benjamin D'Urban took up his commission as Governor of the Cape of Good Hope, and Commander-in-Chief of its land forces.

The period 1815-34 had seen British society subjected to tremendous pressures, both economic and social. The Great Reform Act of June, 1832,<sup>1</sup> and the spate of social legislation of which it was a part,<sup>2</sup> formed a positive response to those pressures. The negative reaction had been symbolised by the repressive Six Acts of 1819,<sup>3</sup> and by the way in which Lord Melbourne, Home Secretary during the premiership<sup>4</sup> of Earl Grey, had kept firm control<sup>5</sup> during the tense months when parliamentary reform was being passionately debated. The whole tenor of this period underlined the growing importance of Parliament as the source of political influence, and the arbiter of political power.

In order to appreciate the problems and limitations which confronted a colonial Governor like D'Urban, and to understand his sense

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<sup>1</sup>Reform Act, June, 1832, II. & III. Will.IV, cap. XLV.

<sup>2</sup>These included the Roman Catholic Emancipation Act, April, 1829, 10 Geo.IV, cap. VII, the Factory Act of 1833, III. & IV. Will.IV, cap. CIII, the Poor Law Amendment, August, 1834, IV. & V. Will. IV, cap. LXXVI, Municipal Reform Act, September, 1835, V. & VI. Will.IV, cap. LXXVI. See A.Rs. 1829, 1833-5.

<sup>3</sup>The Six Acts of December, 1819, 60 Geo.III and 1 Geo.IV, cap.I, cap.II, cap.IV, cap.VI, cap.VIII and cap.IX. See A.R. 1820.

<sup>4</sup>November, 1830 - July, 1834.

<sup>5</sup>See Anthony Wood, Nineteenth Century Britain, pp.80-8. The existing laws were strictly enforced, rioting was suppressed by troops and special commissioners were appointed with extensive powers to preside over trials of malcontents. Hundreds were tried by courts sitting at Salisbury and Winchester, and although few of the death sentences were carried out, 457 people were transported to Australia.

of frustration at times, it is necessary to place him in the context of his age, and in relation to the forces in Parliament, the Colonial Office and society at large which helped to shape the official attitude to the problems of the Cape in the 1830s. At the outset it is important to remember that the Cape was a small portion of a vast empire which stretched throughout the world, and that although many of the Cape's problems were given a degree of uniqueness by local conditions and circumstances, they were by no means unknown in other parts of the empire. The Cape was only one of twenty slave colonies,<sup>6</sup> for example, and colonies like British Guiana possessed institutions and attitudes inherited from their previous Dutch rulers, while immigrants to New Zealand were confronted with all the problems engendered by their encroachment upon the lands of the aboriginal inhabitants, the Maoris. The major difference with regard to the Cape was its large and unproductive land mass, and the almost limitless bounds to which it could in theory be extended, situated as it was at the base of a continent largely unoccupied by other European powers.

When D'Urban officially became Governor of the Cape on 16 January, 1834, his position, with regard to the Crown he represented, was that of an honoured and trusty servant.<sup>7</sup> The tone of D'Urban's relationship with the Crown was expressed in several recurrent phrases in the official documents of appointment. His authority to govern was a 'present'<sup>8</sup> granted by the Crown, to continue during its pleasure only, and subject to

...any further instructions under Our Signet or Sign Manual or in Our Privy Council or through Our Principal Secretary of State, We shall and may think fit to proscribe. Provided

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<sup>6</sup>The other slave colonies were centred primarily in the West Indies, and were Antigua, Barbados, Bermuda, Dominica, the Bahamas, Grenada, Jamaica, Montserrat, Nevis, St. Lucia, St. Christopher, St. Vincent, Trinidad, the Virgin Islands, Tobago and Barbuda. Other slave colonies were British Guiana, Honduras and Mauritius.

<sup>7</sup>C.A., G.H.1/96, p.4, Instructions to D'Urban, 8 November, 1833. The actual wording used in his Instructions was: "...Our Trusty and Well-beloved Sir Benjamin D'Urban..."

<sup>8</sup>C.A., H13, 'Letters Patent granted to Sir Benjamin D'Urban, K.C.B., to be Vice Admiral of the Cape', dated 6 June, 1833.

nevertheless and we do hereby reserve to Ourselves, Our Heirs and Successors, Our and their undoubted right and authority to disallow any such laws and to make and establish from time to time with the advice and consent of Parliament, or with the advice of Our Privy Council, all such Laws as may to Us or them appear necessary for the order...and good government of the [Cape of Good Hope].<sup>9</sup>

Moreover, the present of the Governor's authority was considered a demonstration of "...the trust we [the Crown] have reposed in you..."<sup>10</sup>

The fabric of the relationship between Crown and Governor was carefully woven from the strands of three documents presented to D'Urban before he left England to take up his post at the Cape: firstly, Letters Patent, dated 6 June, 1833, bestowed upon him the position of Vice-Admiral of the Cape of Good Hope; a Writ of Privy Seal, dated 23 October, 1833, commissioned him Governor and Commander-in-Chief of the land forces at the Cape; and finally his Instructions, issued under the Royal Sign Manual and dated 8 November, 1833, defined, supplemented and modified his commission.

The rationale behind the creation of D'Urban as Vice-Admiral was based firmly upon commercial interest,<sup>11</sup> and the Governor was also

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<sup>9</sup>C.A., H14, 'Writ of Privy Seal appointing Sir Benjamin D'Urban Governor...', dated 23 October, 1833. The King's formal Instructions were issued under the Royal Sign Manual; see D.M. Young, The Colonial Office in the early Nineteenth Century, pp.8-9. "The great seal and the privy seal were used on instructions issued under the signet [in origin the most personal to the monarch of the three seals of the realm] the use of which was in turn authorized by an instruction issued under the sign manual."

<sup>10</sup>Ibid.

<sup>11</sup>By 1834 colonial governors were no longer required to enforce the old Navigation Acts, as these had largely been revised by Huskisson, Chairman of the Board of Trade between 1823-8, who allowed free trade with British colonies, on condition that countries who availed themselves of this allow reciprocity, and with the reservation to British shipping of sea transportation within the empire. The colonies, in turn, were permitted to export or import in their own ships, or those of another country. Britain granted a preference to its own goods, but allowed the colonies to keep the proceeds of the differential rate, and also the privilege of corresponding preferences in the English market. Huskisson also allowed a substantial preference to the staple product of each colony. At the Cape wool rapidly became the most profitable staple; 67,890 lbs. were exported in 1832 and 373,203 lbs. in 1836. See R.M. Martin, History of the Colonies of the British Empire, pp.490-494; also C.H.B.E., Vol. II, pp.390-1, and S. Daniel Neumark, Economic Influences on the South African Frontier, 1652-1836.

required to take the oath of "...Governors of Plantations to do their utmost that the several Laws relating to Trade and the Plantations be duly observed..."<sup>12</sup>

As Vice-Admiral D'Urban had the power

...to take cognisance of and proceed in all Causes, Civil and Maritime, and in Complaints, Contracts, Offences or suspected Offences, Crimes, Pleas, Debts, Exchanges, Accounts, Charter Parties, Agreements, Suits, Trespasses, Injuries, Extortions, Demands and Businesses, Civil and Maritime, whatsoever commenced or to be commenced between Merchants or between Owners and Proprietors of Ships... employed or used within the Maritime Jurisdiction of Our Vice-Admiralty...<sup>13</sup>

But the right of appeal to the High Court of Admiralty in England was permitted, and the rights and powers of that Court were specifically safeguarded, "...from whom...it is not Our Intention in anything to derogate by these Presents..."<sup>14</sup> D'Urban was also required to report annually on the proceedings of the Vice-Admiralty Court at the Cape, and render an account of its financial transactions.

The Writ of Privy Seal which commissioned D'Urban Governor of the Cape delineated his powers. It also informed him of the Crown's intention to take the process of constitutional development at the Cape one step further with the institution of Executive and Legislative Councils to replace the Council of Advice, established in April, 1825. D'Urban was granted "...full power and authority with the advice and consent..."<sup>15</sup> of these Councils to legislate for the Cape, but subject again to any further instructions issued on the Crown's behalf. The Writ also empowered D'Urban to grant Crown land to the public; to waive fines, penalties and forfeitures to the value of £50; to pardon criminals, subject to the laws of the Colony, and to suspend any civil servant from his office. Finally, the Writ made provision for the succession in the event of D'Urban's death or absence from the Colony.

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<sup>12</sup>C.A., G.H. 1/96, p.9, Instructions.

<sup>13</sup>C.A., H13, Letters Patent.

<sup>14</sup>Ibid.

<sup>15</sup>C.A., H14, Writ of Privy Seal.

The third document of importance in creating the fabric of D'Urban's governorship was his comprehensive Instructions of 63 folio pages, which contained directions on how the powers set out in the Writ were to be exercised.

The Instructions also set out the details of the new constitutional structure. The Legislative Council was to consist "...of not less than 10 nor more than 12 persons [exclusive of D'Urban] of whom 5 shall at all times...be persons holding offices within [the colonial administration of the Cape]...",<sup>16</sup> and not less than 5 nor more than 7 unofficial members "...from and out of chief Landed Proprietors and principal Merchants...",<sup>17</sup> and who had been resident within the Colony for at least two years. D'Urban was to nominate these unofficial members, and to appoint them by means of a commission under the Public Seal of the Colony. The appointments were to be ratified by the Crown. The Legislative Council was not empowered to act unless 6 members and the Governor or presiding member, usually the senior military officer next in command after the Governor, were present. It is important to note that the form of local or unofficial participation was intended to be limited and controlled, and the official members of the Legislative Council thus took precedence over the unofficial ones. Decisions were by a simple majority with the Governor, or the member presiding in his absence, in possession of a deliberative and also a casting vote in cases of deadlock.

D'Urban was instructed to frame standing rules and regulations for the efficient and speedy conduct of business laid before the Legislative Council, and subject to any periodic alterations made with the consent of the Council, these rules were to be binding, unless of course they conflicted with the spirit of his Commission and Instructions, or were disallowed by the Crown. He was also directed to permit "...freedom of debate in all affairs of Public concern..."<sup>18</sup> submitted for the consideration of the Legislative Council, and while D'Urban was permitted a negative voice in the passing of any ordinance, he was

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<sup>16</sup>C.A., G.H. 1/96, p.14, Instructions.

<sup>17</sup>Ibid., p.16.

<sup>18</sup>Ibid., p.25.

specifically enjoined to have recorded upon the Council minutes the reason for that dissent, and to inform the Crown "...through one of Our Principal Secretaries of State for Our information by the earliest opportunity of conveyance."<sup>19</sup> Minutes of Council proceedings were to be kept regularly and copies, with an index, were to be submitted twice yearly to London. Again D'Urban was expressly prohibited from proposing or assenting to any ordinance "...respecting the constitution, proceedings, numbers or mode of appointing or electing..."<sup>20</sup> any members of the Legislative Council which conflicted with his Commission, Instructions, an Act of Parliament or an Order in Council. The Legislative Council was further prevented from granting any gratuity to the Governor or other Council member.

The Executive Council was to be made up of the Senior Officer in Command of the Land Forces "...and not being in the administration of the Government [of the Cape]",<sup>21</sup> the Colonial Secretary, the Colonial Treasurer and the Attorney-General. Two members were to form a quorum, minutes were to be kept of the Council's deliberations, and again, copies were to be forwarded twice yearly to London. The Governor was instructed to consult with the Executive Council, who were to advise him "...upon any question connected with the Executive Government..."<sup>22</sup> of the Cape, except in cases where he decided the matter at hand was too unimportant or too urgent to admit of such advice. In the latter case the Governor was to inform the Executive Council as soon as possible of the action he had taken, and the reasons for that action. D'Urban was also authorised, at his discretion, to act contrary to the advice of the Executive Council, provided that in such an eventuality he once again reported fully to the Crown the reasons for so acting.

With minor constitutional amendments introduced for succeeding Governors, these instructions represented the constitution for the Colony for the next twenty years.

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<sup>19</sup>C.A., G.H. 1/96, p.26, Instructions.

<sup>20</sup>Ibid., p.28.

<sup>21</sup>Ibid., p.50.

<sup>22</sup>Ibid., p.52.

The dual conciliar form of government thus introduced represented another step along the path towards responsible government at the Cape. A Council of Advice had been established there on the instructions of the Secretary of State in May, 1825, and was designed partly to check the autocratic power of Lord Charles Somerset, and partly to achieve a measure of uniformity consistent with control in other colonies of conquest.

A Council of Advice had similarly been introduced in Mauritius in 1825, and in most of the other colonies of conquest some form of advisory council had either been inherited from the preceding sovereign power, as in Berbice and Essequibo-Demerara, or Councils of Advice had been established as ad hoc solutions to wartime crises, as in Ceylon in 1801 and San Domingo in 1794.<sup>23</sup>

The process of a devolution of power was accelerated in 1831 when Trinidad and Mauritius, both colonies of conquest, were granted Executive and Legislative Councils, and when in the following year St. Lucia followed suit.<sup>24</sup> Ceylon's Councils were conferred in 1833, the same year D'Urban's Commission made a like provision for the Cape.

D'Urban's Instructions guaranteed "...modes of Religious Worship as [were] not prohibited by Law, provided [the practitioners] be contented with a quiet and peaceable enjoyment of the same, not giving offence or scandal to the Government",<sup>25</sup> and all ordinances regarding religion were to contain a clause suspending their operation until the pleasure of the Crown was known. In part this clause reflected the new religious toleration which the Catholic Emancipation Act of 1829 had fostered in Britain.

With regard to financial matters D'Urban was enjoined not to impose any new rate or duty "...by which Our Revenue might be lessened or impaired, or whereby Our Prerogative might be diminished or in any respect infringed..."<sup>26</sup> D'Urban was also expressly for-

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<sup>23</sup>See M.E. Donaldson, 'The Council of Advice at the Cape of Good Hope, 1825-1834', pp.1-56.

<sup>24</sup>Ibid.

<sup>25</sup>C.A., G.H. 1/96, p.62, Instructions.

<sup>26</sup>Ibid., p.30.

bidden to allow bills of credit, debentures or any other negotiable securities to be issued on the credit of the Colony in lieu of money, the establishment of a government paper currency, or the declaration of any coin legal tender without the special permission of the Crown. The imperative necessity to meet military expenditure during the war of 1834-5 forced the Colonial government to adopt various expedients, some infringing the above regulations. But as D'Urban wryly noted in pencil on a copy of a letter from the Treasury to R.W. Hay,<sup>27</sup> which in turn complained about certain technical irregularities in the way in which Sir Lowry Cole<sup>28</sup> had balanced the colonial budgets of 1832 and 1833: "There never was any misunderstanding on the subject - but necessity knows no law!"<sup>29</sup>

D'Urban's Instructions further directed that discrimination on the grounds of colour was not to be legally sanctioned; lotteries were not to be permitted, and no ordinance was to be passed which naturalised aliens, or established "...a Title in any person to Lands, or other immovable property acquired by any Alien before his or her naturalization",<sup>30</sup> an injunction D'Urban violated in spirit and in letter, by the provisions of his 'May Policy' and September Treaties, in 1835. The Governor was, however, allowed to make grants of waste or Crown lands, but not exceeding 100 acres, for public and private use, and order the necessary surveys.

All ordinances passed by the Governor with the advice of the Legislative Council were to be forwarded in duplicate to the Crown for its assent, disallowance, or "...other direction thereupon".<sup>31</sup> With the exception of ordinances immediately essential for the raising of the annual supplies for the service of the Colony, and in cases where delay would cause serious inconvenience or injury, ordinances

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<sup>27</sup> Hay held the position of Permanent Undersecretary for the Colonies at the Colonial Office from July, 1825 - February, 1836.

<sup>28</sup> Governor of the Cape, September, 1828 - August, 1833.

<sup>29</sup> D'Urban's marginalia on C.A., G.H. 1/98, Stewart to Hay, 18 Oct. 1833.

<sup>30</sup> C.A., G.H. 1/96, p.33, Instructions.

<sup>31</sup> Ibid., p.40.

were inoperative until the pleasure of the Crown had been made known. In cases where the ordinance was implemented before such information had been received, D'Urban was to inform the Crown of his reasons for taking such action. As in the Writ of Privy Seal, the right of the Crown to confirm and enact, or to disallow any colonial ordinance, in whole or in part, was expressly reserved in the Instructions, as was its power, with the advice of the Privy Council, to amend any colonial ordinance "...in such manner as may be necessary or expedient..."<sup>32</sup> If the Crown did not signify its pleasure on any ordinance within three years of that ordinance's passage through the Legislative Council, it was to be considered as having been disallowed.

D'Urban was further instructed to have authenticated copies of all ordinances, together with a copy of the Crown's amendments, or its allowance or disallowance, enrolled at the Cape Supreme Court for the information of the Judges of that Court. Furthermore, a collection of all new ordinances was to be published annually for the general information of the public, and each year ordinances were to be numbered in sequence "...to the number corresponding with the total number of ordinances enacted during the year..."<sup>33</sup> Specific instructions as to the actual format and drafting of ordinances were included, and the Governor was enjoined to allow no ordinance to be enacted unless it had been gazetted and made publicly known three weeks before that enactment. This was to enable any objections to be made known, and the Governor was instructed to make a full and impartial examination of the grounds upon which that opposition was based.

In clarification of the power laid down in his commission to grant a sentenced criminal an absolute or conditional pardon, D'Urban was instructed to obtain from the presiding Judge a written report of the proceedings together with the evidence adduced, and the Judge's opinion as to whether grounds existed for the granting of a pardon. The Governor's pardoning powers were thus restricted, and he was further enjoined to permit no punishment "...as can in no case be inflicted by the Law of England..."<sup>34</sup> His authority to remit fines

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<sup>32</sup>Ibid., p.43.

<sup>33</sup>Ibid., p.47.

<sup>34</sup>Ibid., p.60.

was limited to the value of £50 or less, and anything above that amount was to be temporarily withheld pending the pleasure of the Crown. To D'Urban's power to suspend civil servants upon "sufficient cause" were added the provisos that he consult with the Executive Council, inform the person to be suspended of the grounds for that action, and request him to present his case in writing. Both documents were to be transmitted to the Crown. All appointments to the colonial service made by the Governor were made "...during pleasure only...",<sup>35</sup> and were to be considered "...temporary and provisional...",<sup>36</sup> until the Crown's final decision was known. D'Urban was not allowed to arbitrarily increase or decrease the salary of any civil servant.

All these restrictions on the Governor's power in 1834 were indicative of the greater degree of control exercised by the Crown through the Colonial Office in London. During his tenure as Governor, Somerset had had the patronage of the civil service of the Colony entirely in his hands, with complete powers over all locally appointed officials with regard to their appointments, dismissal and pay.

In 1843 James Stephen wrote: "The Gov[ernor] has, properly speaking, no independent authority at all. All that he does he does on behalf of the Queen. Whatever power he exercises are [sic] exercised on H[er] M[ajesty]'s account."<sup>37</sup>

In practice long delays in communication<sup>38</sup> allowed Governors a certain discretion of action, and often important decisions, like D'Urban's annexation of Queen Adelaide Province in May, 1835, were taken without, or even in contravention of instructions from Britain, and the actions were often sanctioned. But as with D'Urban's annexation,

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<sup>35</sup>Ibid., p.66.

<sup>36</sup>Ibid., pp.66-7.

<sup>37</sup>Minute, 18 January, 1843, discussing bounties for emigrants to New South Wales. Quoted by Paul Knaplund, James Stephen and the British Colonial System, 1813-47, p.45.

<sup>38</sup>"Under very favourable circumstances a reply from the imperial government to a letter from Cape Town during the period of D'Urban's governorship and until the development of the steamship could be received in from four and a half to five months, but usually a much longer time was taken." Theal, Vol. II, p.124.

Colonial Office intransigence on grounds of expense or the violation of humanitarian principles could lead to a blank refusal to accept the *fait accompli*. Knaplund noted that Governors were "proud proconsuls, not submissive underlings",<sup>39</sup> and the point D'Urban emphasised to Stockenstrom in a letter dated 8 November 1836 held true for all his official acts as Cape Governor: "I had, it is true, expressed my opinions and impressions unreservedly and plainly upon several very important points of Frontier Policy and arrangement, and this was due at once to Your Honor [sic], to His Majesty's Service and to the interests of the Colony..."<sup>40</sup>

In accordance with his Instructions, D'Urban formally inaugurated the Legislative Council at the Cape on 2 April, 1834. The five unofficial members of the Council appointed by the Governor were Cloete, Ebdon, van Breda, Pillans and du Toit.<sup>41</sup>

The Crown's instructions to D'Urban to establish a Legislative Council were by no means unique to the Cape, and reflected the genuine concern of both Parliament and the Colonial Office for the fair but firm control in all colonies. For example, the instructions given to Sir Robert Wilmot Horton as Governor of Ceylon in 1833 followed the same form<sup>42</sup> as those issued to D'Urban, but the Legislative Council of New South Wales had been granted by an Act of Parliament in 1823.<sup>43</sup>

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<sup>39</sup>Knaplund, James Stephen..., p.45.

<sup>40</sup>C.A., A519, Vol. 15, pp.98-115, D'Urban to Stockenstrom, 8 November, 1836. My emphasis.

<sup>41</sup>Cloete owned substantial estates around Cape Town. J.B.Ebdon (1787-1873) remained on the Legislative Council until 1849 when he resigned. Prominent in Cape commercial affairs, Ebdon was again elected to the new Legislative Council when representative government was granted in 1853. See D.S.A.B., Vol. II, pp.212-3. Michiel van Breda (1775-1847), was also a prominent Cape farmer and persistently advocated representative government. See D.S.A.B., Vol. I, p.809. Both Pillans and du Toit were prominent Cape landowners.

<sup>42</sup>V. Harlow and F. Madden, British Colonial Developments, 1774-1834, p.150.

<sup>43</sup>3 and 4 Geo. IV, cap. XCVI, A.R. 1823.

At the Cape the Legislative Council was dependent upon the Governor's Commission and Instructions for its legal foundation. Such Instructions were issued anew to each succeeding Governor, and Napier's omitted two points previously established in D'Urban's Instructions, notably that the unofficial councillors were appointed for life and had the right to introduce legislation. As a result of these vagaries the councillors during Napier's governorship then held their appointment during Her Majesty's pleasure, and legislation could only be proposed by the Legislative Council's ex-officio members.<sup>44</sup>

Apart from the fact that the Legislative Council's ex-officio members outnumbered its nominee councillors, the latter all resided in Cape Town or its immediate environs. D'Urban had offered a seat on the Council to a wealthy Port Elizabeth inhabitant, Korsten, but he had declined because of the impossibility of his attending Council meetings regularly. Du Toit, who owned a large farm in the Hex River valley near Worcester, was forced to retire for similar reasons in December, 1834. Thus, the Eastern Districts were not represented on the Legislative Council, and this was later to contribute towards the considerable agitation in that part of the Colony in what was generally known as the 'separatist movement'.<sup>45</sup>

Many of the ordinances<sup>46</sup> passed by the Legislative Council during D'Urban's governorship gave evidence of the state of tutelage under which it sat, and also reflected its Western Cape origins. That the Colony's legislature could pass an ordinance "for abating the nuisance occasioned by dogs roaming at large in and about Cape Town"<sup>47</sup> was clear proof both of its parochial outlook and its limited authority. To a certain degree the Council's parochial attitude was later balanced out by the Municipal Ordinance<sup>48</sup> of August, 1836, which allowed towns

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<sup>44</sup>A.K. Fryer, 'The Government of the Cape of Good Hope, 1825-54: The Age of Imperial Reform', A.Y.B., Vol. I, 1964.

<sup>45</sup>See J.L. Stead, 'The Development and Failure of the Eastern Cape Separatist Movement with special reference to John Paterson', p.13.

<sup>46</sup>See Appendix 5.

<sup>47</sup>Ordinance 14 of 1836.

<sup>48</sup>Ordinance 9 of 1836.

to regulate many of their own affairs without continuous reference to Cape Town. Yet despite its faults and limitations, the Legislative Council was no mere cypher; the Vagrancy Ordinance of 1834 revealed the quality of the steel which lay at its core.<sup>49</sup>

Although D'Urban's Commission and his Instructions were couched in language which plainly indicated that his power and authority were derived from the Crown, political reality in the 1830s meant that he was responsible for his handling of that power to the Crown through one of its principal Secretaries of State, in other words the Secretary of State for War and the Colonies.<sup>50</sup> The Secretary of State was the appointee of the particular Whig or Tory ministry in power, and his tenure was dependent on his retention of the favour of his ministerial colleagues, and upon their combined effort in retaining the support of the House of Commons.

Increasingly after 1815, it was in Parliament that the Secretary had to face the greatest criticism and the greatest opposition to the way in which his department dealt with the variety of problems which flowed in from the mass of heterogeneous colonies under British control. This was because Parliament in the 1830s took a greater interest in colonial affairs, fired by humanitarian ideals, an interest in the reduction of colonial expenditure, and the prevention of arbitrary colonial government.

The approval and support of Parliament, particularly the House of Commons, were important for two major reasons. The Commons had the power to order a full enquiry into almost any facet of the government's activity and could officially censure any department for inefficiency of operation and, more seriously, loose financial control. As the Secretary took full responsibility for the operation of his department, he would be the one to bear the wrath of Parliament, and in an era where the principle of collective cabinet responsibility was emerging, his ministerial colleagues would share a part of the burden.<sup>51</sup> If the irregularities were great enough, the Ministry could be forced

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<sup>49</sup>See pp. 113-9

<sup>50</sup>See Appendix I.

<sup>51</sup>See A. Aspinall, The Cabinet Council, 1783-1835, p.214.

out of power. The parliamentary opposition were fully aware of these facts of political life; thus careful, economical administration was generally the rule.

Parliament also held the purse strings of government<sup>52</sup> because of its power to appropriate and grant the money so essential for any form of administration. With economical government an officially recognized policy by the late 1820s, Parliament's traditionally keen interest in how public funds were spent focused on where additional savings could be made, primarily to make government as inexpensive as possible, but increasingly with a view to make it as efficient as possible. The rationale behind this was partly the heavy national debt accumulated during the wars with France (1793-1815); in 1830, £30 million out of a revenue of £50 million went to pay the interest on that debt.<sup>53</sup>

In 1828 the reports of a House of Commons select committee into finance fixed the demand for reform on the financial administration of the colonies, and in April, 1830, the Treasury followed up the recommendations of that committee with the appointment of a Commission of Enquiry into "the Receipt of the Revenues, collected within His Majesty's several Colonies and Foreign possessions and into the expenditure both of the Said Revenues, and of the supplies provided out of the Revenues of the United Kingdom for the maintenance of the Said Colonies and Foreign Possessions."<sup>54</sup>

Among the recommendations, the Commission suggested that the "Treasury should exercise a strict and efficient control over every branch and every article of Colonial Expenditure [and] that such further directions should be given as will ensure the attention of the Colonial Governments to this important object."<sup>55</sup> The Commission

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<sup>52</sup>See Appendix 3.

<sup>53</sup>G.R. Porter, The Progress of the Nation, p.617, 'Abstract of Public Income and Expenditure in the United Kingdom, in various Years from 1792-1849.'

<sup>54</sup>Quoted by Young, Colonial Office, p.192. 'Colony' was not always used in the exact sense to indicate an overseas settlement, but often as a useful administrative term to denote an area controlled by an officer responsible to the Secretary of State for the Colonies. *Ibid.*, p.246.

<sup>55</sup>Quoted by Young, *op.cit.*, p.194.

also suggested that colonial accounts should be submitted regularly for examination by the Colonial Audit Office. This Office, established in 1814, reflected the merging of the demand for economical government with the move towards administrative efficiency. It had been created to ease the burden on the Audit Office, whose commissioners, apart from routine matters, had also dealt with all grants made by the British Parliament for colonial purposes as well as auditing the accounts of the captured colonies of Ceylon, Mauritius, Malta, Trinidad, and the Cape of Good Hope. The Commissioners of Colonial Audit were not expected to keep a close check on internal colonial expenditure, but rather an overall check on those accounts and the expenditure of parliamentary grants to those colonies. By 1828 the Commissioners were reporting on 13 colonies,<sup>56</sup> and in 1832 their office was merged into the Audit Office of the United Kingdom. Further instances of a general tightening up of administrative procedures were indicated by the creation, also in 1832, of a new post in the Treasury with specific responsibility for the Colonies - that of the Principal Clerk for Colonial Business, and the establishment in 1833 of a Joint Agency to replace the old system of individual agents for each Crown Colony, which had been much abused. However, reform in government was piecemeal rather than thorough-going, and in response to the exigencies of the moment, for as Young correctly declared: "Old traditions and attitudes were reluctantly modified, never suddenly abandoned."<sup>57</sup>

In the years 1815-25 the Colonial Office expanded in response to a number of factors, chief among them the new burdens inherent in the administration of conquered colonies; the necessity of handling the administrative aspects of parliamentary efforts to promote slave emancipation; the need to control the increased British emigration to the colonies, and the implementation of economy in colonial administration as a result of the drive for economical government, which became an officially recognized watchword in 1828, nearly fifty years

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<sup>56</sup>Ceylon, Mauritius, Malta, Trinidad, Cape of Good Hope, New South Wales, Van Dienan's Land, Sierra Leone, Gold Coast, Demerara, Berbice, St. Lucia and Newfoundland. Ibid., p.186.

<sup>57</sup>Ibid., p.255.

after Edmund Burke's speech on economical reform in February, 1780.<sup>58</sup> As a result of this increase in work more responsibility devolved on to the Office's permanent officials whose place in the decision-making process was "clearly recognized".<sup>59</sup>

One of the most influential members of the Colonial Office during D'Urban's governorship was James Stephen,<sup>60</sup> like Charles Grant, who became Secretary of State for War and the Colonies at a critical stage of D'Urban's administration (April, 1835), a man profoundly influenced by the ideals of the humanitarians in Parliament. Stephen in fact was the son of one of the most active participants in the drive for slave emancipation, James Stephen senior, and when his father took Wilberforce's sister as his wife, the younger Stephen became part of the family circle of the great abolitionist.

Nevertheless, and despite the influence of subordinates the Secretary, as the political head of the Office with a seat in Parliament, retained responsibility for the policies and direction of his department. Young concluded his work on the Colonial Office with the statement: "...the use of the name of a Secretary of State by an Under-Secretary was not and did not become the mere ritual that was

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<sup>58</sup>The economy-mindedness of Parliament can be traced to the Whig campaign of the 1780s to reduce the influence of the Crown by abolishing sinecures and inefficient offices at its disposal. The emphasis on the elimination of corruption changed to the pursuit of economy and efficiency in government, objectives which were more closely pursued in the post-war depression years when payment of the interest of the national debt alone absorbed more than 60% of the government's annual income. The only avenue open to retrench seemed to be that portion devoted to routine administrative costs, since every department in 1815 was larger and paying higher salaries than prior to the war. The cry for economy was echoed by the country gentlemen who persisted in their traditional demand for lower taxation. Young, *op.cit.*, pp.6-7.

<sup>59</sup>*Ibid.*, p.4.

<sup>60</sup>James Stephen (1789-1859), lawyer, philanthropist, civil servant and later Regius professor of Modern History at Cambridge. Between 1813-25 he acted as legal counsel to the Colonial Office; from 1825-34 he was permanent counsel to it and the Board of Trade. In 1834 he was appointed assistant Undersecretary of State to the Colonies, and from 1836-49 he held the post of Permanent Undersecretary. See Knaplund, James Stephen...

involved in the use of the King's name by the Secretary of State."<sup>61</sup> In the period under review the Secretary of State possessed a very real power, but it was neither an arbitrary nor a blind power, and was subject to an effective system of control.

But the will of the King in the early decades of the Nineteenth Century could not be ignored. After all the King in Privy Council was theoretically the supreme legislature for the conquered colonies and he could also veto the acts of colonial legislatures. In a power structure where the King remained the embodiment of absolute authority and where all official business and acts were carried out in his name, he still retained "an undefined residuum of power",<sup>62</sup> and could expect to be consulted in all matters which concerned that ancient authority. Thus in 1835 William IV could force the modification of Glenelg's peremptory instruction to D'Urban to abandon Queen Adelaide Province to a less definite allowance of a period of grace to reply to the despatch and the queries it raised, although the clear implication remained that the province was to be abandoned.<sup>63</sup>

Much of the inter-relationship between government departments in the 1830s continued to be regulated by an accumulation of ancient practices, gentlemen's agreements and an informal system of contacts, controlled by the polite fiction: "I am directed by His Majesty". In the colonies each government department supervised its own service as it did in Britain. Defence was the responsibility of the Army and Navy and their controlling ministers; foreign policy that of the Foreign Secretary; the regulation of trade was directed by the Board of Trade, postal services by the General Post Office; prisoners convicted in the United Kingdom, wherever they were sent, remained the responsibility of the Home Office, while the Treasury was responsible for the collection and disbursement of revenue. In the case where a department neglected its responsibility or where no other department could legally claim authority, the Secretary of State for the Colonies

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<sup>61</sup>Young, Colonial Office, p.262.

<sup>62</sup>Ibid., p.173.

<sup>63</sup>W.M. Macmillan, Bantu, Boer and Briton (1963), pp.175-6.

was empowered "as a sort of residual legatee of the prerogative of the Crown."<sup>64</sup> He was also the only Minister authorised to correspond<sup>65</sup> with colonial governors and one of his most important tasks was to ensure that they maintained peace, law and order in their colonies. Moreover, as the activities of other government departments might have an important influence on the internal situation in a colony, the Secretary assumed a co-ordinating role, and had to be informed of all government activities in the colonies. At times he could insist that the colonial representatives of other government departments be subject to the governors' political authority. The Secretary of State was, in turn, responsible to Parliament.

Parliament in 1834 still reflected the interests of a small percentage of the total British population. The Reform Act of 1832 had increased the electorate from 500,000 to 813,000 or roughly one-thirtieth of the population.<sup>66</sup> Of the numerous vested interests or 'pressure groups' represented in the House of Commons and involved in colonial affairs, shipowners, planters, West Indian merchants and colonial land companies formed groups which could very often be pacified or managed by a process of judicious compromise. But the anti-slavery group, who enthusiastically embraced the principle laid down by the senior James Stephen<sup>67</sup> that "...we shall do nothing effectual to check colonial crimes till we blazen them to the English public, and arm ourselves with public indignation",<sup>68</sup> gained such a position of moral ascendancy in the Commons that they had ultimately to be satisfied rather than managed.

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<sup>64</sup>Young, op.cit., p.170.

<sup>65</sup>Ibid. A colonial governor who also commanded the military forces in a colony corresponded with the Treasury and Horse Guards. With the permission of the Secretary of State he could write to other ministers on matters concerning his colony.

<sup>66</sup>K.B. Smellie, Great Britain since 1688: A Modern History, pp.163-8.

<sup>67</sup>James Stephen, senior (1758-1832), an inner member of the Clapham circle, brother-in-law to Wilberforce, and a tireless supporter of slave emancipation. He was also "a Tory die-hard", and the father of the younger James Stephen, who made his reputation in the Colonial Office. See Knaplund, James Stephen..., p.10ff.

<sup>68</sup>Quoted by E.M. House, The Clapham Sect, p.153.

Disparagingly known as 'the Saints' in their day, and later remembered as the Clapham Sect or humanitarians, the anti-slavery group in Parliament had political influence far beyond its numbers in the Commons. The whole of Wilberforce's<sup>69</sup> group, including a circle larger than the inner sanctum of the Clapham Sect, never numbered more than 20 or 30<sup>70</sup> in a Parliament of 658.

From the time when he made his first speech against the slave trade in 1789, until slaves were finally emancipated by an Act of Parliament in August, 1833,<sup>71</sup> Wilberforce and the Sect worked tirelessly towards that goal, often in the face of powerful opposition from the West Indian sugar and other related interests. During the 44 or so years of their campaign and by means of petitions, mass meetings and generally in a manner which Knaplund has described as "the most up-to-date political pressure methods",<sup>72</sup> the humanitarians successfully appealed to a public sentiment stirred by the teachings of evangelicals like John and Charles Wesley. Although the evangelical appeal was to a limited section of the British population, that section was influential in commerce, industry and increasingly after 1832 in politics. Moreover, the cause of the slave which they so fervently espoused<sup>73</sup> was one which few fair-minded Englishmen could morally deny. As Sir Lowry Cole remarked during his governorship of the Cape at which time slavery still remained in force: "The very name of slavery is abhorrent to an Englishman, and rouses every generous feeling in our nature."<sup>74</sup>

In Parliament the Clapham Sect were in a minority, yet they ultimately exercised a profound influence upon that ancient institution. In an era of political jobbery and parliamentary management, the Sect

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<sup>69</sup>William Wilberforce (1759-1833), philanthropist, parliamentarian and one of the leading and most persistent figures in the drive, first for the abolition of slave trade, and then of slavery itself. See D.N.B., Vol. LXI, pp.208-17.

<sup>70</sup>Howse, Clapham Sect, p.173.

<sup>71</sup>III & IV. Will. IV, cap. LXXIII, A.R. 1833.

<sup>72</sup>Knaplund, James Stephen..., p.98.

<sup>73</sup>See Appendix 4.

<sup>74</sup>Quoted by Hunt, Sir Lowry Cole, p.123.

presented the Commons with the picture of a unified group of men who put their principles before considerations of party or personal profit, "who looked to the facts of the case and not to the wishes of the minister, and who before going into the lobby required to be obliged with a reason instead of a job."<sup>75</sup> As a result they achieved a position of trust, respect and power in the Commons.

The political longevity of the group was symbolised by Wilberforce. From 1789 until he relinquished the physical leadership of the group to Thomas Fowell Buxton,<sup>76</sup> in 1823, Wilberforce was never defeated in his Yorkshire constituency, despite determined opposition from opponents who in 1807 unsuccessfully spent over £200,000 to try and defeat him.<sup>77</sup>

The humanitarian influence in Parliament declined after Wilberforce's death in 1833 and the ultimate achievement of their goal of slave emancipation in the same year, but only noticeably so when Buxton lost his parliamentary seat for Weymouth in 1837. But during the period of D'Urban's governorship, the humanitarian influence was still a power to be reckoned with, and continued to colour the views of parliamentarians and civil servants alike for many years to come.

Included amongst the former was Charles Grant, Lord Glenelg, and a vice-president of the Church Missionary Society. It seems certain that Grant actually visited the Cape at the time of the second British occupation as Sir David Baird's secretary. During the short period of his visit Grant would have been in contact with the problems facing administration at the Cape. Although not nearly as complex as those facing him as Lord Glenelg nearly thirty years later, Bradlow, the discoverer of this fact, believed "these problems...are almost certain to have influenced his later attitudes."<sup>78</sup> This is a moot point,

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<sup>75</sup>G.O. Trevelyan, quoted by Howse, Clapham Sect, p.173.

<sup>76</sup>Sir Thomas Fowell Buxton (1786-1845), M.P. for Weymouth 1818-47, philanthropist, and Wilberforce's successor as leader in the movement for slave emancipation. Buxton also chaired Parliament's Aborigines Committee of 1835-7.

<sup>77</sup>See Howse, *op.cit.*, p.174; also D. Wright, Democracy and Reform, p.6.

<sup>78</sup>F.R. Bradlow, 'Lord Glenelg's visit to the Cape of Good Hope', A.N.N., Vol. 18, pp.300-3.

particularly after so long a period of time, but Glenelg's despatch of 26 December, 1835, certainly reflected a grasp of the fundamental problem of the frontier which prior, if limited, knowledge would go far to explain.

Glenelg was ably assisted by Stephen who had strong links with the missionary and humanitarian movements. Stephen was generally unpopular with groups like the West Indian sugar interest who in 1828 had blocked<sup>79</sup> his appointment as Permanent Under-Secretary, and certainly in the correspondence between D'Urban and Bell in 1835 he appeared as the 'eminence grise' of the Colonial Office. In a letter to D'Urban dated 25 June, 1835, Bell outlined the political situation in Britain and declared: "One thing is, most unfortunately, quite certain - that James Stephen is a fixture, and no Colonial Minister will dare to gain-say him and his party!"<sup>80</sup>

Trained as a lawyer, Stephen's association with the Colonial Office stretched back to 1813. By conviction he was a political liberal, and supported the Benthamite ideal of government providing the greatest happiness for the greatest number, the reform of the nation's criminal law, and the laissez-faire policy of the free-traders. In his study of Stephen and his influence on the Colonial Office, Paul Knaplund considered that Stephen, "Strictly honest, untiringly efficient...not only reformed the administration of the British colonial empire, but set standards for the British civil service which made it the model for other countries and later ages."<sup>81</sup> In the eyes of such a man, a calculated campaign of annexation and expulsion to achieve the stability and security of a colonial border and at the cost, moreover, of justice to its indigenous inhabitants would find little favour.

Often at variance with the humanitarian determination to impart Christianity and British civilization throughout the empire, was a

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<sup>79</sup>Knaplund, James Stephen..., p.36.

<sup>80</sup>C.A., A519, Vol. 2, pp.92-5, Bell to D'Urban, 25 June, 1835. Colonel (later General Sir) John Bell (1782-1876), served throughout the Peninsular War, and later held the office of Colonial Secretary to the Government of the Cape of Good Hope. See D.S.A.B., Vol. I, pp.65-6.

<sup>81</sup>Knaplund, *op.cit.*, p.17.

powerful commercial impulse. Britain in the Nineteenth Century was par excellence a mercantile nation, and Pitt's remark "British policy is British trade"<sup>82</sup> succinctly underlined the logical basis of much of Britain's diplomacy. In the period 1815-50 it has been calculated that the British balance of credit abroad rose from about £10 million to £208.7 million.<sup>83</sup> The economic facts of Britain's power and her commercial supremacy were well known, both to the governing party and on the opposition benches. In 1834 Palmerston told the Commons that to accuse a Secretary of State of indifference to the country's commercial interests was to accuse him of being deficient in common sense,<sup>84</sup> and in 1841 he grandiloquently declared: "It is the business of government to open and to secure the roads for the merchant."<sup>85</sup> When in 1838, Melbourne sent Russell a copy of Buxton's The Slave Trade and its Remedy, he believed it would be the basis of the humanitarian approach in Parliament in the next session. He clearly underlined the commercial impetus of the empire when he declared, not without a certain cynicism: "It is impossible not to feel that religion, morality, law, eloquence, cruisers will all be ineffectual when opposed to a profit of cent, per cent, and more."<sup>86</sup>

In the dawning age of laissez-faire economics, the old view of stringent colonial preferential protection was tinged by commercial reality, and a colony, to be favoured by the British government, had at least to balance its budget from its own revenues. British North America, for example, was a valued possession. In 1833 exports to Britain worth £965,026 were transported via the St. Lawrence, and in that same year the value of New Brunswick's exports to Britain was £469,464.<sup>87</sup> A survey of Cape exports in 1837 reflected the total

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<sup>82</sup>Quoted by D.C.M. Platt, Finance, Trade and Politics in British Foreign Policy, p.XIII.

<sup>83</sup>Albert H. Imlah, Economic Elements in the Pax Britannica, Table 4, pp.70-5.

<sup>84</sup>Quoted by Platt, op.cit., p.XIV.

<sup>85</sup>Ibid.

<sup>86</sup>Melbourne to Russell, 3 September, 1838. Quoted in Galbraith, Reluctant Empire, p.27.

<sup>87</sup>Peter Burroughs, The Canadian Crisis and British Colonial Policy, 1828-1841, pp.13-14.

figure as worth £384,383.<sup>88</sup> Thus a colony like New Brunswick, comprising a mere 14% of the Cape's total land mass, produced exports worth 12% more than those produced at the Cape. Even at the best of times the Cape struggled to be a self-supporting colony, and often it could not sustain its own civil government from the revenue raised. In 1834 the total revenue of the Colonial government was £119,583 and its expenditure was £120,925,<sup>89</sup> and by the end of 1835 the public debt at the Cape stood at £264,768. Even after paring the military establishment<sup>90</sup> at the Cape to the bare minimum over a number of years Britain's military expenditure at the Cape was at no time less than £100,000.<sup>91</sup>

Thus it is easy to see why the colony D'Urban was despatched to administer was not considered one of the jewels of the British empire. In fact Stephen once bluntly described its hinterland as "the most sterile and worthless"<sup>92</sup> of Britain's possessions. During a debate in the House of Commons on 24 May, 1830, Sir George Murray, Secretary of State for War and the Colonies, declared the extent of the Cape to be nearly equal to that of the United Kingdom, with a population of only 119,966, comprising 31,000 slaves, 35,000 free blacks and 53,966 whites.<sup>93</sup> With a population "as numerous as the inhabitants of one of

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<sup>88</sup>Martin, p.490. The percentages were based upon the area in square miles for the Cape given by Martin, History of the Colonies of the British Empire, p.473, and also by Martin, p.235, for New Brunswick, i.e. the Cape 200,000 square miles and new Brunswick 27,704 square miles. The extent of the united Kingdom including Ireland is approximately 121,350 square miles.

<sup>89</sup>Martin, op.cit., p.488.

<sup>90</sup>Britain paid the bill for imperial defence. See, for example, C.A., G.H. 1/98, p.2, Stanley to D'Urban, 31 December, 1833.

<sup>91</sup>Galbraith, op.cit., p.36.

<sup>92</sup>Minute by Stephen, 19 February [1841?] on Napier to Glenelg, 12 July, 1838; quoted by Galbraith, op.cit., p.26. See Map 2.

<sup>93</sup>Debate in the House of Commons on a Cape petition for Representative Government. G.W. Eybers, Select Constitutional Documents illustrating South African History, 1795-1910, p.32. In his book, The Great Trek, p.16, Eric A. Walker estimated the population in 1834 to be perhaps 150,000, comprising 65,000 Europeans, 39,000 slaves, and the rest free persons of colour.

the second-rate towns of England"<sup>94</sup> spread over an area roughly equivalent to the United Kingdom, and with few commercial advantages to recommend it, it was not surprising that in an era of economical government and rampant commercialism, the imperial government begrudged the money spent to defend the Cape and support its Colonial government.

The British first took the Cape of Good Hope by conquest from its Dutch overlords in 1795, and although it had been returned to the Dutch under the terms of the Peace of Amiens in 1803, it was retaken in 1806 amid reports of an intended French expedition to India. At the time it was generally believed that stores were being accumulated at the Cape for a large force from Europe, and it was even rumoured that France's Toulon squadron was to be sent to the east.

The strategic value of the Cape lay in the fact that it was one of a chain of ports which in enemy hands could threaten the safety of the sea route to Britain's possessions in the east. Moreover, it occupied a key position on that route by being the southernmost point of Africa. Ceylon had been captured from the Dutch in February, 1796, with the fall of Colombo, but unlike the Cape it had been retained at Amiens primarily because of its fine natural harbour at Trincomalee. The retention of Ceylon and the second reoccupation of the Cape proved insufficient to prevent French commercial raiding, and between 1807-9 the East India Company lost 14 merchantmen to French ships stationed on the island of Mauritius.<sup>95</sup> As a result, a series of combined army and navy operations was launched from India, and in 1809-10 the British captured the islands of Rodrigues, Bourbon and Mauritius. At the peace in 1814, Bourbon was returned to France but Mauritius and its dependencies were retained to help safeguard the eastern sea route. The conclusion of peace increased the number of British overseas possessions from 26 to 43.<sup>96</sup>

Earl Macartney, military Governor of the Cape from 1797-8, realised the Cape's importance as a link in the chain which protected the

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<sup>94</sup>Minute, Stephen to Smith, 29 May, 1841, on Napier to Russell, 16 March, 1841; quoted Galbraith, op.cit., p.36.

<sup>95</sup>Hunt, Sir Lowry Cole, p.30.

<sup>96</sup>C.H.B.E., Vol. II, p.128.

sea route to India, but he saw little likelihood of it ever becoming a profitable base for the economic exploitation of the hinterland, and hence a market for British manufacturers. Moreover, he viewed Ceylon and its harbour at Trincomalee as being of greater strategic value. At the Peace of Amiens this proved to be the view of the British government, especially when Lord Nelson gave the view that although the Cape had been a useful intermediary base in the old days, British naval supremacy made it little more than a pleasant "tavern on the passage."<sup>97</sup>

The statesmen who decided to keep the Cape in 1814 acted for reasons of a negative nature. The Cape had been conquered and retained in the interests of India's security and to deny it to other European powers, and not because the Admiralty or the Ministry of the day saw in it a major base for the refreshment or refitting of vessels: there was little to justify the development of a useful naval station into a military fortress for the defence of India while Britain controlled the seas. In 1795, Sir Francis Baring, Chairman of the East India Company's Court of Directors, expressed the opinion that was to remain at the centre of Britain's official thinking towards the Cape long after France had ceased to be the enemy. In a letter to Henry Dundas, Pitt's Secretary of State for War, Baring wrote:

The importance of the Cape, with regard to ourselves, consists more from the detriment which would result to us if it was in the hands of France, than from any advantage we can possibly derive from it as a Colony. It commands the passage to and from India as effectually as Gibraltar doth the Mediterranean; and it serves as a granary for the Isles of France [Mauritius and its dependencies]; whilst it furnishes no produce whatsoever for Europe, and the expence [sic] of supporting the place must be considerable. <sup>98</sup>

Thus the Cape Colony came to be viewed in the light of an expensive appendage, an additional guarantee in an already formidable system of mercantile marine protection.

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<sup>97</sup>G.S. Graham, Great Britain in the Indian Ocean, 1810-50, p.27, quoting from the debate in the House of Lords on the Preliminary Peace, 3 November, 1801.

<sup>98</sup>Baring to Dundas, 12 January, 1795. Theal, R.C.C., Vol. I, pp.19-23. See Appendix 1.

In the era of greater parliamentary interest in colonial affairs, the state of the Cape's finances caused grave concern to the Treasury. Although Britain's wealth was increasing progressively in the period 1815-50, a heavy national debt meant government expenditure was carefully scrutinised, and made the British government unwilling to assist a colony which could not balance its budget.

Successive governments at the Cape had met financial crises and raised money by the expedient first resorted to by Governor van Plettenberg in 1782 when he issued paper notes in lieu of coin, the notes being ultimately redeemable for the equivalent amount in the coin usually current in the Colony. This paper money was known as rixdollar currency,<sup>99</sup> and the redeemed rixdollars were to be destroyed by the government. Wide fluctuations in the values of various coins in the Dutch trading empire and the acceptability of Cape paper money in domestic transactions meant that astute Cape colonists could make large profits by the exportation of Cape coin to Holland or India. Although the exporting of coin was prohibited in successive Placaats of May, 1782, December, 1783, and March, 1793, and by the British in January, 1800, and again in January, 1806, the large profits available made smuggling an acceptable risk. The situation deteriorated further in 1816 when Somerset permitted the export of bullion.

The absence of a metallic base for the paper currency, coupled with factors like a high rate of imports, a low rate of exports, low revenue returns, and the creation of more paper to meet specific needs<sup>100</sup> led to a depreciation of the rixdollar from its original sterling value of four shillings to a value of only one shilling and sixpence by 1825.

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<sup>99</sup>"The rixdollar is an imaginary coin or so-called money of account..." The Memorandum of Commissary J.A. de Mist. Quoted in E.H.D. Arndt, Banking and Currency Development in South Africa (1652-1927), p.18.

<sup>100</sup>The Batavian Government, for example, issued 75,000 rixdollars in March, 1804, to assist distressed Stellenbosch farmers whose property had been damaged by fire. In September, 1804, 50,000 rixdollars were issued to erect public buildings at Uitenhage and Tulbagh, and 150,000 rixdollars for public buildings in Cape Town. Between 1810-14 the British administration issued one million rixdollars to boost the credit of the Lombard Bank, and for the repair and erection of public buildings. See Arndt, op.cit., p.21; pp.26-7.

By 1 January, 1825 the value of the paper currency in circulation in the Colony was about 3,102,204 rixdollars, nominally equivalent to £232,665 sterling.<sup>101</sup> Soon afterwards an excess of 484,851 rixdollars was discovered, underlining a persistent problem in the issue of paper money at the Cape - forgery.<sup>102</sup> Forgery was greatly facilitated by the large number of denominations,<sup>103</sup> sizes and types of coloured paper used to make the notes, and also by the frequent need to replace worn, torn, and dirty notes. Often there was no way of tracing the forgeries, and the amount had to be added to the public debt. Moreover, the only banking institutions, the Lombard Bank (established 1793) and the Lombard Discount Bank (established 1808) were government controlled, and were manipulated in what was considered the interests of the Colony. These institutions were frequently criticised for laxity in enforcing loan repayments and for general methods of management, most notably by the Commissioners for Eastern Enquiry.<sup>104</sup> Apart from mortgages held by the Lombard Bank, the financial structure of the Cape rested upon the word of the government.

In 1825 the British government proposed to introduce sterling throughout the colonies as a measure of imperial uniformity and also to put "conflicting and unsound systems of Colonial currency"<sup>105</sup> on a secure footing. At the Cape British silver and copper coins were introduced into circulation on 1 January, 1826 by the simple expedient of paying the garrison stationed there with coin to the value of £56,000, and the military commissariat was authorised to issue bills on the Treasury in London against the silver or paper at a steadily reduced discount. With the new silver to replace them 1,237,000 rixdollars were rapidly accounted for and cancelled, and the plan was to

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<sup>101</sup>Ibid., p.48.

<sup>102</sup>Cory, Vol. I, pp.162-3 gives a detailed account of how paper was issued, received and destroyed.

<sup>103</sup>"The paper circulation which in 1807 was constituted of no less than 18 different denominations in yellow, green, red, blue and black, had subsequently been increased to 22 denominations..." Arndt, op.cit., p.61.

<sup>104</sup>Ibid., pp.191-2.

<sup>105</sup>Ibid., p.44.

replace the balance of the paper with new notes of English denomination exchangeable at par with the Treasury bills. These financial arrangements for the first time provided the Colony with the basis for financial security, but it was not until 1841 that the Colonial government finally succeeded in withdrawing the rixdollar notes.<sup>106</sup>

The reasons for this were twofold. It was not until July, 1831 that the Treasury authorised the issue of the new sterling paper currency. By a Proclamation dated 24 April, 1828, Bourke<sup>107</sup> had been obliged to issue new notes, but hesitated to make the change to sterling without authority from London, and instead the notes issued were red-stamped rixdollars. Consequently only by a Proclamation dated 12 July, 1832, was it announced that the "old Colonial Cartoon Paper Currency", the notes with "Circular Stamps" and the notes with "Oblong Stamps"<sup>108</sup> - all rixdollars - were to be replaced with new promissory notes with their values in sterling.

Secondly, colonial revenue often did not meet expenditure and governors were forced to various expedients to balance the budget, including the periodic re-issue of paper. Bourke had to apply the annual capital repayments of the Lombard Bank to the colonial service in 1827, and informed the Secretary of State for the Colonies Lord Bathurst:<sup>109</sup> "I fear the establishment and necessary expenditure of the Colony cannot be supported without aid from the British Treasury,"<sup>110</sup> a point the Treasury refused to concede. In 1830 Cole was forced to use a deposit in the bank which amounted to £8,112, and in 1831 applied £3,000 from bank funds in aid of the colonial budget. In 1832 he again appropriated £11,000 to meet a deficiency in the revenue, although he was prohibited by Treasury instructions from applying any portion of the sums received in repayment, on account, of long loans made by the bank.

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<sup>106</sup>Ibid., p.65.

<sup>107</sup>Governor of the Cape, March, 1826-September, 1828.

<sup>108</sup>C.L., G.G., 13 July, 1832.

<sup>109</sup>Secretary of State for War and the Colonies, June, 1812 - April, 1827.

<sup>110</sup>Arndt, Banking and Currency Development in South Africa, p.60.

The situation was clearly intolerable to the Treasury and in October, 1833 Stewart, Secretary to the Treasury, informed the Colonial Office of this in no uncertain terms.<sup>111</sup> In future colonial expenditure at the Cape was not only to be kept "within the Resources, but also for so economizing these Resources to ensure some surplus that may be applied to the redemption of that part of the Government Paper in circulation which, having been issued in payment of the Expenditure of the Government, constitutes a debt without any other provision for its liquidation."<sup>112</sup> The Colonial Office went one step further and added that the repair of certain public buildings, and the reduction or consolidation of those taxes which oppressed Cape agriculture were to be defrayed from the surplus.<sup>113</sup>

Both the Treasury and the Colonial Office were aware that such measures were not likely to be met by any increase of revenue. In his despatch to D'Urban of 31 December, 1833, Stanley<sup>114</sup> therefore directed D'Urban to "reduce the charge for the civil establishments, not only to their due proportion with the public income, but to the extent which may be requisite for realising a surplus revenue, adequate to provide for the great objects to which I have directed your notice." The way the Colonial Office proposed this be done was "to dispense without delay with the services of all those functionaries whose duties it has been considered might properly be assigned to others." The immediate saving envisaged out of a civil establishment budget of £86,020 was £10,694 with an ultimate annual saving of £10,616.<sup>115</sup>

Retrenchment was by no means a new issue in Cape government. Lord Goderich<sup>116</sup> had directed a similar proceeding in a despatch to Cole

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<sup>111</sup>C.A., G.H. 1/98, Stewart to Hay, 18 October, 1833, Enclosure no.2 in Stanley to D'Urban, 31 December, 1833.

<sup>112</sup>Ibid., pp.126-7.

<sup>113</sup>C.A., G.H. 1/98, p.5, Stanley to D'Urban, 31 December, 1833. D'Urban received this despatch on 27 April, 1834.

<sup>114</sup>Secretary of State for War and the Colonies, March, 1833 - June, 1834.

<sup>115</sup>C.A., G.H. 1/98, op.cit., p.121.

<sup>116</sup>Secretary of State for War and the Colonies, April, 1827 - September, 1827, and November, 1830 - April, 1833.

dated 28 March, 1828.<sup>117</sup> The Treasury now directed the immediate application of a schedule of reductions similar to Goderich's, with amendments, by 1 July, 1834. In the despatch of 31 December, 1833, Stanley also reminded D'Urban that there was "nothing in the position of the Cape, as a dependency of this country which should entitle it to pecuniary assistance from the British Treasury beyond the charge which is incurred for its military defence." The Colony was to pay for itself, and D'Urban was to comply fully with the Treasury instructions that no sums of money received in repayment of loans were to be re-issued for any purpose whatever without the express and previous authority of His Majesty's Government.

The Governor's salary was reduced from £7,000 to £5,000 per annum,<sup>118</sup> with an allowance only for a town house, but with nothing for fuel, forage or rations. That of the Secretary to the Government was reduced from £2,000 to £1,500, and in the cases of other senior officials considerable reductions were made. Retrenchment in the districts was particularly significant in terms of the large areas to be administered. The positions of Civil Commissioner and Resident Magistrate were consolidated, and although the Colonial Office allowed the Governor to decide "upon the appreciation of the merits and qualifications of the respective parties"<sup>119</sup> as to whether the Civil Commissioner or Resident Magistrate would be retired, it was made quite clear that pension claims were to be included in the reckoning. Thus Stanley wrote in favour of retaining Truter, Civil Commissioner of Worcester since 1828, and retiring the Resident Magistrate, Lesueur. He argued: "Mr Truter having a claim to a dormant pension of £200 as a retired member of the late Court of Justice, it would certainly be more economical to retain him in the office of Civil Commissioner."<sup>120</sup> D'Urban agreed, and Truter became joint Civil Commissioner and Resident Magistrate for Worcester with no salary increase.

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<sup>117</sup> See Hunt, Sir Lowry Cole, p.131.

<sup>118</sup> Lord Charles Somerset's salary had been £10,000 per annum. (See A.K. Millar, Plantagenet in South Africa, p.50.) Cole had received £7,000 per annum. Hunt, *op.cit.*, p.89.

<sup>119</sup> C.A., G.H. 1/98, p.72, Stanley to D'Urban, 31 December, 1833.

<sup>120</sup> *Ibid.*

Retrenchment also meant that the position of Resident Magistrate in some districts was upgraded to the status of Assistant Civil Commissioner, but without any corresponding increase in salary. Before retrenchment there had been seven Civil Commissioners, twelve Resident Magistrates and six Justices of the Peace to carry out the work of government in the seven administrative areas<sup>121</sup> into which the Colony was divided in 1834. After 1 July, 1834, the seven posts of Civil Commissioner were jointly held with the post of Resident Magistrate and four Assistant Civil Commissioners held their office in combination with that of Resident Magistrate. There were also nine Justices of the Peace and one Resident Magistrate whose position was unencumbered with additional duties. He was stationed at Plettenberg instead of Uitenhage and drew half the annual salary of £300 of the previous Magistrate at Uitenhage. Civil administration in the districts was consequently put under great pressure by this retrenchment.<sup>122</sup> This was particularly true in the frontier districts where civil officials were in addition instructed to liaise with the military authorities in checking cattle stealing, and to deal with the many civil problems attendant to the frontier situation. The defects of this policy of retrenchment were rapidly brought to light both during and after the war of 1834-5. In Grahamstown a harassed civil administration was relieved<sup>123</sup> of some of its civic duties to be able to prosecute the war while the appointment of Stockenstrom as Lieutenant-Governor of the Eastern Districts in 1836 necessitated the creation of three new districts and the re-definition of the status of three sub-districts. This was both to facilitate his greater control in the east, and also because his Instructions<sup>124</sup> only put him in specific control of the districts of Albany, Somerset, Uitenhage and Graaff-Reinet.

In 1828 the district of George had been united with that of Uitenhage, and had since been administered by one Civil Commissioner. The

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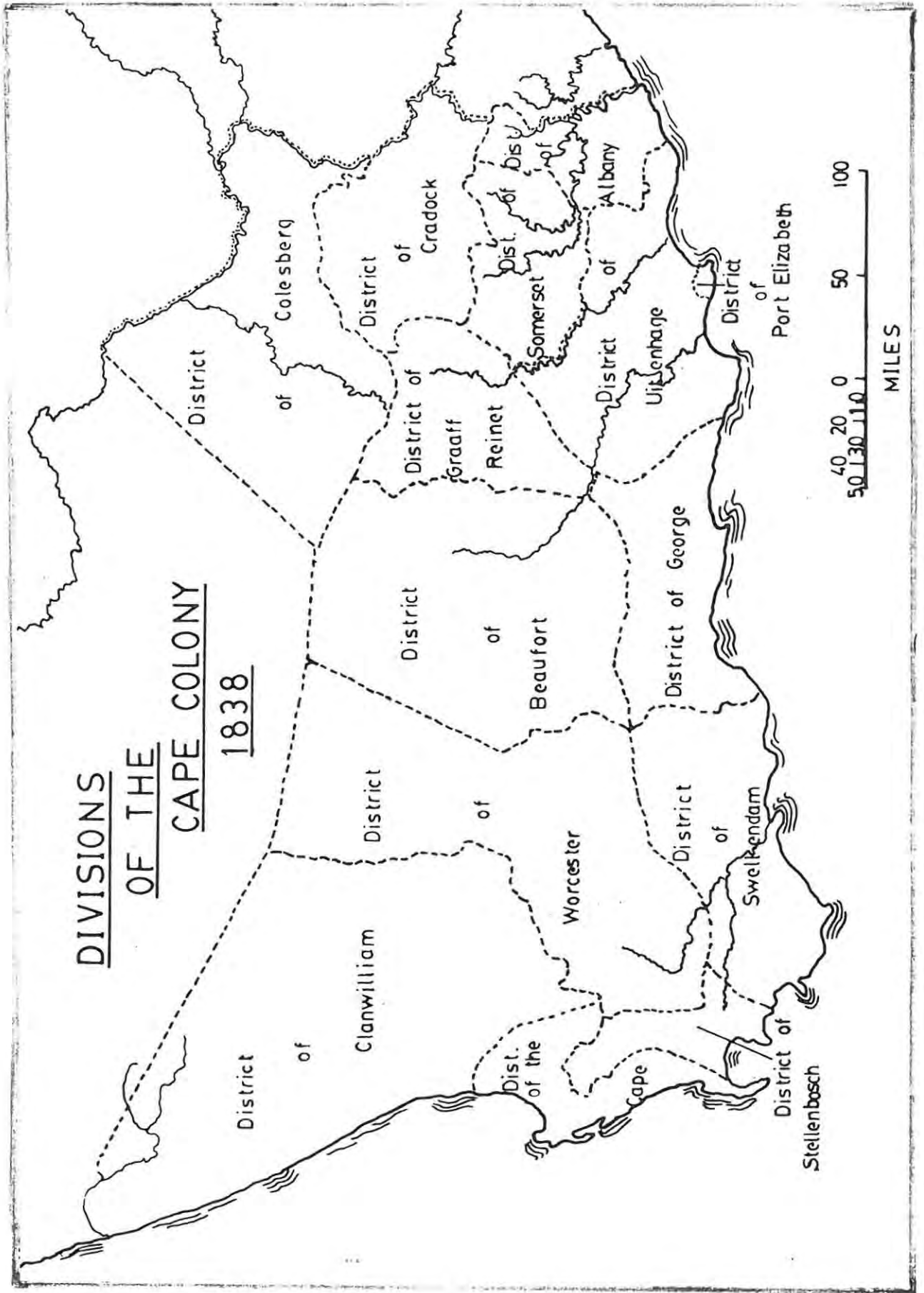
<sup>121</sup>These seven administrative areas were - Cape District, Stellenbosch, Worcester, Swellendam, Uitenhage and George, Albany and Somerset, Graaff-Reinet and Beaufort. See G.H. 1/98, op.cit.

<sup>122</sup>There were 25 civil servants in key positions in the districts before 1 July, 1834, and 21 after that date. See Appendix 5.

<sup>123</sup>See p.298.

<sup>124</sup>C.A., G.H. 1/108, pp.93-4, Glenelg to Stockenstrom, 5 February, 1836.

DIVISIONS  
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CAPE COLONY  
1838



sub-district of Beaufort had been formed in November, 1818, from portions of the districts of Tulbagh and Graaff-Reinet, but had been administered by the Civil Commissioner of Graaff-Reinet. As both these areas were excluded from Stockenstrom's Instructions, D'Urban constituted<sup>125</sup> George and Beaufort as provisional districts, and appointed their assistant Civil Commissioners as provisionally in control of their respective districts.

At an Executive Council meeting on 19 October, 1836, the Council noted that these provisional Civil Commissioners were also acting as Resident Magistrates and Special Justices, and accordingly agreed to increase their salaries by £60 a year and to appoint one extra clerk for each, subject to the approval of His Majesty's Government. The Council noted that the intended arrangement would "still be unequal to the proper discharge of the various and important duties expected to be performed by the Chief Magistrate of a district in such a country as this, in addition to those of Special Justice under the Slavery Abolition Act, with which these Magistrates are now charged."<sup>126</sup>

The Council also took the opportunity to create a further district by separating Clanwilliam from the huge district of Worcester, as it was considered that the former should at least be placed on an equal footing with the new districts of George and Beaufort.

Also considered at the meeting of 19 October were Stockenstrom's suggestions that two new Resident Magistrates be commissioned, one for Cradock and the other at Colesberg, and that a Resident Magistrate be re-appointed to Port Elizabeth. With considerable understanding of the burdens of the colonial civil service, the Council voted against allowing the Magistrate and his clerk in Port Elizabeth higher salaries than the incumbents of similar positions, as had earlier been the case, and pointed out that the office holders at Cradock and Colesberg, for example, performed the functions of Special Justices and Civil Commissioners as well as their duties as Resident Magistrates.

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<sup>125</sup>C.L., by a proclamation dated 10 August, 1836, and published in the G.G., 12 August, 1836.

<sup>126</sup>C.A., Ex. Co., I, 19 October, 1836. See pp.103-4.

The additional expense of the new arrangement in the Eastern Districts was calculated to be £300:10:6 per annum, an expenditure which the Council considered "altogether beneath notice when compared with the beneficial results that must certainly arise from its expenditure."<sup>127</sup> Thus by an ordinance dated 6 February, 1837, the districts of Colesberg, Cradock and Port Elizabeth were defined and proclaimed.<sup>128</sup> A further change in the civil government structure of the Colony was effected in July, 1837, when the administration of Albany and Somerset under one Civil Commissioner was abolished, and each created independent in fiscal and judicial matters. A further proclamation in October established a new boundary between these two districts.<sup>129</sup> Once again, circumstances at the Cape had conspired against economy.

The absurdity of the British government policy of retrenchment where considerations of economy clouded fundamental common sense was indicated in the case of the Port Health Office. The Colonial Office proposed to abolish this post altogether, but relented to the extent that "if the services of this functionary should be considered indispensably necessary, there seems no reason why he should not be remunerated by a small fee to be paid by the shipping."<sup>130</sup> The South African Commercial Advertiser pointed out that "the Health Officer is employed for OUR safety not for that of the shipping", and further, with an eye to practical commerce, "nothing could be more injudicious at the present moment than to add unnecessarily to a ship's expenses when entering this Bay for Trade or for refreshment...This is not to economise the Revenue, but to starve the Service."<sup>131</sup>

The pressurised nature of the tasks of many of the posts in the colonial civil service was clearly indicated in the organisation of

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<sup>127</sup> Ibid.

<sup>128</sup> C.L., G.G., 10 February, 1837. Also Theal, Vol. II, pp.164-5. See Map 3.

<sup>129</sup> C.L., G.G., 27 October, 1837. Proclaimed by the Lieutenant-Governor. Also Theal, Vol. II. p.165.

<sup>130</sup> C.A., G.H. 1/98, pp.30-1, Stanley to D'Urban, 31 December, 1833.

<sup>131</sup> S.A.P.L., S.A.C.A., 9 July, 1834.

the Protector of Slaves' Department before and after emancipation. This Department was centred in Cape Town with one Protector of Slaves for the Western Districts - who also performed the duties of Registrar of Slaves and Deeds - and four clerks. In the Eastern Districts there was also a Protector and one clerk.

In all the districts Clerks of the Peace acted ex-officio as Assistant Protectors, and combined that task with their normal clerical duties as well as performing the function of Assistant Registrars. The emancipation of slaves in 1834 did not mean, therefore, that these men became unemployed; either their duties were reduced, and in most cases they continued to receive the same salary as before,<sup>132</sup> or they were found positions elsewhere and retired in the normal course of events. J.G. de Villiers, listed in the Almanac of 1834<sup>133</sup> as Clerk of the Peace, Assistant Registrar and Protector of Slaves for Uitenhage, appeared in the Cape of Good Hope Blue Book<sup>134</sup> for 1838 as Port Elizabeth's Magistrate, while J.F. Bam, Clerk of the Peace at Swellendam in 1833 retired in August, 1838, while still in the same capacity.

In Cape Town the Slave Protectors' Department was redesignated Department of the Keeper of the Late Slave Registers,<sup>135</sup> and continued to function as a registry during the period of apprenticeship, but with fewer clerks, and when one died in July, 1837, the vacancy was not filled.<sup>136</sup> After 1838 the Department ceased to exist, and its head, G.J. Rogers, first temporarily replaced<sup>137</sup> the Auditor-General while the latter was on leave in England in the course of 1839, and thereafter retired.

Thus the emancipation of slaves led to no appreciable financial saving in the colonial service, and the fact that civil servants could

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<sup>132</sup>See Cape Almanac, 1834, pp.166; 204, and successive C.G.H.B.B., 1833-9, under schedule headings of Civil Establishment.

<sup>133</sup>Cape Almanac, 1834, p.204(g).

<sup>134</sup>C.G.H.B.B., 1838, Civil Establishment, p.101.

<sup>135</sup>Ibid., 1835, Pensions, p.48.

<sup>136</sup>Ibid., 1837, Civil Establishment, p.97.

<sup>137</sup>Ibid., 1839, Civil Establishment, p.112.

easily be diverted into other posts suggests that the service supported few sinecures.

Part of the reason for retrenchment at the Cape was to facilitate the redemption of the rixdollar. The financial situation had been complicated by Bourke's issue in 1828 of new or red stamped notes in terms of rixdollars. Moreover, during the redemption of these with new sterling notes, many forgeries had been discovered, and this necessarily hampered the process of redemption. Investigation was not always easy, and on one occasion at least the government declared its inability to come to any determination as to the probable origin of the excess of these notes.<sup>138</sup>

D'Urban attempted to stabilise the situation by proclaiming<sup>139</sup> that as from 27 October, 1835, and in the future no circular red-stamped notes would be accepted at any Government office in the Cape and Stellenbosch districts after 15 November, 1835, and in any other districts after 30 November. Until 30 December the Colonial Treasurer, the Auditor-General and the Lombard Bank were permitted to present all genuine notes in their possession in exchange for sterling notes or silver coin. Between 31 December until 30 April, 1836, and not thereafter such notes could only be exchanged at the Treasury in Cape Town.

Two events conspired to upset the careful plans for a colonial surplus in revenue, and the redemption of the ubiquitous rixdollar. The first, comparatively minor in terms of the second, was the discovery of a deficiency in August, 1834, of £15,050:8:0½d in the Colonial Treasury. The second was of greater importance as it involved the re-issue of paper in the absence of specie from a tardy British Treasury to pay for the immediate and necessary costs of the war of 1834-5.

The death of the Colonial Treasurer, Stoll,<sup>140</sup> in July, 1834 led to an audit of the Colonial Chest, the first since 1828<sup>141</sup> which in

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<sup>138</sup>C.A., Ex.Co., I, 22 February, 1836.

<sup>139</sup>C.L., G.G., 30 October, 1835.

<sup>140</sup>Joachim Wilhelmus Stoll (1786-1834) was a respected and trusted Colonial Treasurer from 1828-34. After his death his estate was sequestered as compensation for his misuse of funds. See D.S.A.B., Vol. III, pp.762-3.

<sup>141</sup>C.A., A519, Vol. 20, pp.59-61, D'Urban to Hay, 23 October, 1834.

itself was a clear breach of a Treasury instruction of 1827 directing half-yearly surveys of the chest. In a letter to Hay dated 23 October, 1834,<sup>142</sup> D'Urban made it clear that Stoll had embezzled the money over a long period and without any hint of his activities. Although he believed the Colonial government might ultimately recover between £11,000 and £12,000 from Stoll's estate, D'Urban declared: "it is a very bad and very grievous business, and, I need scarcely tell you, no trifling inconvenience to a Treasury not over-abundant like ours."

Stoll had used his official position to issue new government promissory notes in sterling through the Commissariat and the Government Bank in exchange for the equivalent amount in old and red-stamped rixdollar notes which were supposed to be destroyed, but which in all probability were not. The new notes were perfect, having been signed by the Acting Colonial Secretary, the Auditor-General and Stoll himself in his position of Treasurer and Accountant-General. But the necessary special proclamation of the Governor, which described and authorised the issue of the notes, had not been published. In its description of the affair, the Commercial Advertiser took the opportunity to air a colonial grievance:

The substitution of these 'Government Promissory Notes' in lieu of the rixdollar notes, defaced and destroyed, is by the authority of the King, and they are received in exchange ...for Bills on His Majesty's Treasury in England on the same terms as British silver money, that is at a discount of  $1\frac{1}{2}$  per cent. But they bear nothing on the face of them which entitles the holder to demand payment, within the Colony, of their full value...The Proclamation of 12 July, 1832, in which [the] substitution of 'Promissory Notes' for the old rixdollar notes is first announced [does not] acknowledge the obligation of Government to receive them in payments made to Public Officers, or order that they shall be a legal tender in private transactions. In this respect they are still less than satisfactory than the old rixdollars themselves. We know and feel that there is no danger of their being refused, but in so serious a matter there should be no shadow of imperfection..<sup>143</sup>

Although D'Urban and the Executive Council agreed that payment on these unproclaimed notes could be legally resisted, they deemed it more

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<sup>142</sup>Ibid.

<sup>143</sup>S.A.P.L., S.A.C.A., 13 August, 1834.

important to prevent a loss of faith in the new promissory notes.<sup>144</sup> As a result the Director of the Bank was ordered to accept and transmit them to the Colonial Treasurer. The Commissariat was likewise directed to pay the Colonial Treasury all the unproclaimed notes in its possession in return for credit on the Colonial Chest.

Despite the setback sustained through Stoll's embezzlement, the contingent estimates of revenue and expenditure for 1835, which D'Urban put before the Executive Council on 14 October, 1834, anticipated a surplus of £3,088:5:5½d,<sup>145</sup> an achievement of some considerable importance in the light of the recent financial state of the colonial budget at the Cape. It was unfortunate for both D'Urban and the Colony that this promising state of affairs was eroded by the tide of war which broke on the unsuspecting frontier colonists on 21 December, 1834.

The conflict placed an immediate and heavy strain upon the Colonial Treasury, for in the face of slow British action to meet repeated pleas for coin to pay for the war, the burden of supporting destitute colonists and sustaining the military in the field fell upon it and any financial expedients which could be devised. Only in March, 1837, more than two years after the outbreak of the war did any appreciable financial assistance arrive from Britain in the form of gold coin. The delay was keenly felt by the colonial authorities. On 7 November, 1835, D'Urban

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<sup>144</sup>C.A., Ex. Co., I, 9 August, 1834.

<sup>145</sup>Anticipated Revenue for 1835: £121,563:18:10¾d

Estimated Expenditure:

a) for ordinary establishment and pensions	£ 77,864:12: 9½d
b) for contingent	£ 77,537: 7: 9½d
c) for unfixed miscellaneous	£ 20,073:12:11 d
<u>Total:</u>	£115,475:13: 5½d

Leaving an estimated Balance in favour of the Treasury of: £ 6,088: 5: 5½d

D'Urban proposed and the Council agreed that a sum not exceeding £3,000 should be set apart to cover any casual or unforeseen expense. The estimated surplus was thus reduced to:

£ 3,088: 5: 5½d

These contingent estimates, with minor amendments, were passed by the Legislative Council on 3 December, 1834. C.A., Ex. Co., I, 14 October, 1834.

on the frontier, wrote to Bell, the Colonial Secretary in Cape Town, with a flash of that anger and a touch of the scorn he was soon to display in his despatch of 9 June, 1836 to Glenelg. He declared: "...it is almost incredible with what utter indifference their Lordships bear us to want and beggary."<sup>146</sup>

D'Urban spent most of 1835 on the frontier in the conduct of military operations and in the implementation of his May and September policies. Thus the immediate direction of colonial finances fell under the control of Colonel Bell, head of the Provisional government the Governor had set up before he left for the frontier on 8 January, 1835. D'Urban had complete faith in Bell and declared in a letter dated 30 January, 1835: "In all and everything, I have full confidence in your judgement, foresight and arrangement of all you do."<sup>147</sup> His faith was not misplaced.

In a letter to D'Urban dated 30 January, 1835, Bell suggested the application of the Storm Fund, established as a result of the devastating storm of July, 1822, to the relief of the frontier colonists, declaring significantly: "It has nothing whatever to do with the Paper Money". He continued:

If we were as honest as we are poor, it should be sent home as a repayment to the Treasury. Take a good slice of this and apply it at once to the relief of the distressed: this would be putting the saddle on the right horse - would lighten the peoples' hearts and gild their future prospects: this would show that there is a helping hand...What Minister of the Crown would dare to disallow such an act? <sup>148</sup>

Bell, obviously wary of a repetition of the Stoll affair, informed D'Urban he had issued a secret commission to examine the Colonial Chest.

The result was perfectly satisfactory. He [Brink, the Colonial Treasurer] had a surplus Treasury Balance lying

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<sup>146</sup>C.A., A519, Vol. 22, pp.4-6, D'Urban to Bell, 7 November, 1835.

<sup>147</sup>C.A., A519, Vol. 18, p.36, D'Urban to Bell, 30 January, 1835.

<sup>148</sup>C.A., A519, Vol. I, pp.84-7, Bell to D'Urban, 30 January, 1835. Bell's emphasis. D'Urban agreed to Bell's suggestion with minor modifications in his letter to Bell of 6 February, 1835.

in the Bank of about £280...The Treasury Balance is between £9,000 and £10,000, much to his surprise and mine. Now that we are so rich, shall I send a remittance to the Colonial Agent?

a task that he later advised D'Urban he had independently authorised.<sup>149</sup> In the same letter where Bell wrote of the commission to investigate the Chest, he also informed D'Urban with good humour: "Next comes a ridiculous reference at the present moment. Mr Thomas Tennant offers £100 for the Lion and Lioness! Your Excellency meant to send them to England by Captain Booth - but as he is off without, had I not better take this offer and get rid of the beasts once for all...?"<sup>150</sup> D'Urban replied: "I have no chance of sending these fine animals to the Queen's Garden, therefore close, if you will, Mr Tennant's proposal."<sup>151</sup> The burdens of the Colonial government were many and varied. The situation, however, was soon to become bleak and cheerless.

Demands on the Commissariat chest by each frontier post soon reduced it, and made recourse to colonial funds necessary. An Executive Council meeting of 6 April, 1835, accommodated the Commissariat by a loan from the floating balance of the Discount Bank. Bell was well aware that he would ultimately have no choice but to use the long loan repayments, strictly forbidden by the Treasury, and if assistance had not arrived by the time this expedient had been exhausted, then the Colonial government would have to issue paper currency. He had informed D'Urban on 20 February: "The Treasury keeps up yet, but must fail...I am unable to suggest any means of meeting such a contingency, for any recourse to the Loan Deposit is declared to be downright felony! But necessity is said to be like the ex-Chancellor - it has no Law!"<sup>152</sup> Shortly afterwards, on 6 March, he informed D'Urban that the Bank had no more money

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<sup>149</sup>C.A., A519, Vol. I, pp.119-21, Bell to D'Urban, 20 March, 1835. "...finding our Treasury keeping so well up, and knowing the temper of that in Whitehall, I thought the remittance to the Agent could no longer be delayed. I thought, too, that his being driven to the necessity of soliciting an advance there, after Stoll's 'deficiencies' would only make bad worse."

<sup>150</sup>C.A., A519, Vol. I, pp.103-5, Bell to D'Urban, 27 February, 1835.

<sup>151</sup>C.A., A519, Vol. 18, pp.55-8, D'Urban to Bell, 13 March, 1835.

<sup>152</sup>C.A., A519, Vol. I, pp.90-3, Bell to D'Urban, 20 February, 1835. Bell's emphasis.

to lend, "...except the Long Loan fund which the Lords of the Treasury insist on destroying. On a pressing emergency this might be re-issued in sterling notes which...might be burnt hereafter, as fast as they are flowed back to the military chest, for there the redundance must always appear." He added significantly: "Were this loan to be made, the Colonial Treasury will be without any means of making up its deficits of revenue."

By early July, His Majesty's Treasury was in debt to the Colonial government for £25,000, and by mid-August the debt had risen to £45,000. Two months later Bell resigned himself to a raid on the long loan repayments: "I may be hanged, it is true, but there is nothing else for it, to do it I positively will, right or wrong."<sup>153</sup> This expedient was sanctioned at the Executive Council meeting of 29 September, 1835, but with his characteristic foresight Bell informed D'Urban that he had only authorized access to a portion of the loan repayments and had

...declined any further assistance from the Bank, until I shall have been advised as to the probable consequences of our drawing out the deposits, for it will not do to run the Bank so as to force it to refuse or greatly contract its discounts, not merely because that step would lessen our Bank Revenue, but because it would also be productive of much distress among the commercial men and stir them up against us to the greatest pitch of hostility...<sup>154</sup>

As the financial crisis worsened, the conflict between Bell and Petrie, the Deputy Commissary General, grew. Petrie saw quite clearly that ultimately the situation could only be resolved by the issue of colonial paper, a step which Bell understandably found abhorrent, with the tone of Stanley's despatch of 31 December, 1833, still clear in his recollection. Bell wrote on 25 September, 1835: "Mr Petrie says he must have more money. I tell him that what is left is not enough for both, and that he must borrow on interest. He says he won't and will make money..."<sup>155</sup> And again on 20 November, Bell declared, with a touch of asperity: "It is high time that Your Excellency should be here,

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<sup>153</sup>C.A., A519, Vol. 2, pp.211-4, Bell to D'Urban, 4 September, 1835. Bell's emphasis.

<sup>154</sup>C.A., A519, Vol. 3, pp.20-2, Bell to D'Urban, 20 October, 1835. Bell's emphasis.

<sup>155</sup>C.A., A519, Vol. 3, pp.4-7, Bell to D'Urban, 25 September, 1835.

for Petrie is such an impracticable sort of person that I doubt whether he and I shall be able to get on together much longer...Money he must acquire very soon - next week perhaps, and I confess I am at my wits end about it..."<sup>156</sup>

Petrie in the interim had resorted to the further expedient suggested by the Executive Council on 6 October of raising loans at interest on behalf of the British Treasury. All concerned foresaw the displeasure of the Treasury looming large, but it was realised that such a measure was necessary. Bell was grudgingly impressed with Petrie's method of borrowing money:

...Petrie was not wrong in issuing his debentures in the way he did. He offered a certain sum per diem for the use of £100. Some thought it enough and gave him the money. Others thought it too little and therefore offered him less than £100, and he took the offer. So that although he pays the same sum per diem on each Debenture (3 $\frac{1}{4}$ %), yet that sum is, for six months, barely 5% on £100 but 6% on £99:9:7d. The bank again would not give him any money for his 3 $\frac{1}{4}$ % debentures, but offered it to him at 6%, paying down the whole principal sum, without any deductions, and some others followed this example. <sup>157</sup>

Bell was aware, however, that Petrie would only gain a few weeks of solvency by this expedient, and that it would not enable him to repay his considerable debts. "Nothing but actual gold or silver British money can set him up, and this, I fear, he has but little chance of getting, for he has only asked for £25,000 and has borrowed £82,000." Noting that Grahamstown had been involved in the sale of debentures, Bell struck a note of warning:

...these instruments are not money, and bear interest under the present value of money, [and] I do not believe he [Petrie] will be able to sell them at anything near par. If supplies be paid for by these debentures, prices will certainly be enhanced. I dread the notion of their getting into anything like common circulation, for they are not fit for that. <sup>158</sup>

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<sup>156</sup>C.A., A519, Vol. 3, pp.158-61, Bell to D'Urban, 20 November, 1835. Bell's emphasis.

<sup>157</sup>C.A., A519, Vol. 3, pp.184-8, Bell to D'Urban, 27 November, 1835. Bell's emphasis.

<sup>158</sup>Ibid.

Shortly before D'Urban returned to Cape Town, it was obvious that Bell and the Colonial Treasury had almost reached the limit of their material resources, and that the only solution left was to create paper money, a task he equally obviously desired D'Urban to implement. "More remains to be paid than my wherewithal amounts to, by a great deal..." He added caustically: "I should have no scruple in borrowing but the Dutch who have money won't lend, and the English are at all times too intent on their own interests to care a straw about that of the public, except that of gabbling Reformers."<sup>159</sup>

D'Urban returned to Cape Town on 30 December, 1835, and resumed personal control of affairs. Petrie again pressed for authorization to issue promissory notes on behalf of the British Treasury. Bell, supported by the Auditor-General and Colonial Treasurer, continued to resist such a move as contrary to existing instructions, and even if warranted, as "productive of very mischievous consequences",<sup>160</sup> notably the lack of confidence in existing colonial paper, and a withdrawal of private deposits from the Government Bank which "in consequence of the large advances already made by it for the military chest is, and would remain until those advances shall be repaid, utterly unable to meet its engagements and would, of course, be found in a state of insolvency."<sup>161</sup>

Two considerations induced D'Urban to authorise the issue of more colonial paper money for the benefit of the military chest, but he was determined that such a step would be made under the auspices of the Colonial government, and not the Commissariat. Firstly, Petrie reported the financial embarrassment of the military chest with a debt to the Government Bank alone of £68,000. Secondly, a letter dated 13 September, 1835, had been received from the British Treasury, informing the Colonial government of a shipment of £20,000 in British silver coin for the Cape to be followed by a further two shipments, each of the same amount. Thus, on 17 February, 1837, the Governor, with the advice of the Executive Council, agreed to permit paper currency from the Colonial Treasury to the value of £20,000 to be issued for the relief of the

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<sup>159</sup>C.A., A519, Vol. 3, pp.194-5, Bell to D'Urban, 4 December, 1835. Bell's emphasis.

<sup>160</sup>C.A., Ex. Co. I, 22 February, 1836.

<sup>161</sup>Ibid.

Commissariat on condition that it be proclaimed and issued as a loan to the British Treasury, cancelled as received and repayable out of the first shipment of specie received from Britain.

On 13 March, 1837, D'Urban informed the Executive Council that the immediate situation had been saved by "the opportune arrival of specie from England". The long term prospects were less bright.

A schedule of colonial property lost during the war, reduced to financial terms, was drawn up by the Civil Commissioner for Albany and Somerset, Duncan Campbell. Dated 6 May, 1836, it calculated the sterling value of the losses to be £300,401:10s.<sup>162</sup> C.F.J. Muller estimated that the capital loss alone to the frontier farmers was more than £290,000 and that only £15,801 in any form was received as compensation. To illustrate the instability in the post-war period on the frontier he quoted a letter from one Thomas Robson to D'Urban, dated 3 March, 1836. "I...assure you that they [the Boers] are in a most deplorable condition, having nothing to subsist upon, and in many cases actually starving... and if some means are not shortly made use of to relieve them, I certainly am afraid there will be very bad work."<sup>163</sup>

D'Urban had established a Board of Relief soon after he had arrived on the frontier in January, 1835, to deal with such problems, but its funds were hopelessly inadequate. The situation was further aggravated by the refusal of the British government to pay compensation for colonial war losses, for reasons adduced by Glenelg in his despatch to D'Urban of 26 December, 1835, although not definitely stated at that time, and based upon his belief that "...the Caffres had an ample

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<sup>162</sup>P.P., 1837, XLIII, (503), p.337, Schedule of the Loss of Property... 6 May, 1836. The return listed the actual physical losses as follows:

456 houses and 58 wagons burnt or otherwise destroyed; 300 houses destroyed;

5,715 horses	) driven off.
114,930 cattle	
161,930 sheep and goats)	

There are considerable doubts as to the accuracy of Campbell's list. This has been pointed out by A.C.M. Webb in his article, "The Immediate Consequences of the Sixth Frontier War on the Farming Community of Albany", S.A.H.J., Nov. 1978, pp.41-2.

<sup>163</sup>C.F.J. Muller, *Die Oorsprong van die Groot Trek*, p.88. The original is in C.A., A519, Vol. 4, pp.98-101, Robson to D'Urban, 3 March, 1836.

justification of the war into which they rushed with such fatal imprudence..."<sup>164</sup>

Moreover, the war had cost the imperial government a further £154,000<sup>165</sup> above the ordinary military charge of £96,000 for the defence of the Colony. Presented with an estimated military charge of £206,149 for the year ending 31 March, 1837, the Treasury was anxious to reduce costs. Glenelg in a despatch to D'Urban dated 31 December, 1836, informed him "that the information reaching His Majesty's Government, respecting the nature and amount of the disbursements of the military chest, has led them to view this subject in a very serious light." As a result of the reduction in the troop levels which Glenelg presumed D'Urban had been able to effect as a result of the commencement of the withdrawal from Queen Adelaide Province, he requested "a full and detailed report of the arrangements you have in contemplation, in order to provide for the security of the eastern frontier."<sup>166</sup> The implications were clear; an unnecessary war had been fought and won at considerable expense to the British Treasury, and financial losses were to be recouped, or at least minimised as far as possible, by a reduction of the military force and its activities - like building forts and garrisoning them.<sup>167</sup>

Sir Benjamin D'Urban had been given no easy task in his appointment as Governor of the Cape of Good Hope. His powers were circumscribed by an observant Crown and financial stringency; they were also dissipated through a vast and weakly policed Colony which encompassed the extremes

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<sup>164</sup>P.P., 1836, XXXIX, (279), p.61, Glenelg to D'Urban, 26 December, 1835.

<sup>165</sup>Galbraith, *Reluctant Empire*, p.36. However, on page 63 Galbraith declared "the war of 1834-1835 cost [the Treasury] an additional £500,000." Presumably the first total was the immediate military cost; the latter total the final amount when all accounts were ultimately reckoned. The alternative is that Galbraith confused his facts and the true cost lay between £154,000 and £500,000. The point is that the war was extremely expensive.

<sup>166</sup>P.P., 1837, XLIII, (503), p.43, Glenelg to D'Urban, 31 December, 1836.

<sup>167</sup>See Map 7.

of the semi-arid Karoo, the thickly wooded 'jungles' which crowded the Fish River, and high mountain ranges which paralleled the coast<sup>168</sup> and whose deep and tumbling rivers could delay or sever all east-west communication in bad weather. Even in good conditions it required almost seven days for an overland express to reach the Governor from Grahamstown, on the frontier, a distance of some 590 miles.<sup>169</sup> Faced with the pressing problem of slave emancipation, the consequences of which would be felt primarily in the Western Districts, and the Colonial Office's imperative instructions<sup>170</sup> to implement a new frontier system, D'Urban had necessarily to allocate to each a priority.

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<sup>168</sup>See Map 2.

<sup>169</sup>P.P., 1835, XXXIX, (252), pp.117-9, D'Urban to Spring Rice, 5 January, 1835.

<sup>170</sup>C.A., G.H. 1/97, Stanley to D'Urban, 27 November, 1833.

CHAPTER FOUR

THE FUNCTIONS OF GOVERNMENT : SLAVE EMANCIPATION AND  
APPRENTICESHIP, AND THE VAGRANCY ORDINANCE

Sir Benjamin D'Urban has been frequently criticised by historians for his procrastination and delay in visiting the frontier, and in implementing a new frontier policy that Stanley's despatch of 27 November, 1833, had declared to be so important, and existing conditions had proved so necessary. W.M. Macmillan wrote elaborately:

Sir Benjamin proved to have a faculty for delay. In January, 1834, he arrived with definite instructions to attend to the frontier, the condition of which was obviously of vital importance to the life of the Colony. By April his impending visit had been announced to the Xhosa chiefs; but only on 31 May 'the time has now come' to give the matter his august attention. Then, indeed, he hoped to go in August. In August Mrs Philip was given a definite date, 15 September. On 12 September he tells Somerset that he is coming 'early next month'; the same day Lady D'Urban called on Mrs Philip, for the third time in three weeks to ask for 'news from the frontier' for the Governor, who is 'certainly going' early next month. By 3 October Mrs Philip began at last to despair; 'I really hope Sir Benjamin means to go', she writes to her husband...On 17 October, and again on the 20th, Mrs Philip has 'no certain news' of the Governor's plans. She now 'hears it may be 15 November', but he has to be back for 'Emancipation Day' on 1 December...Finally, on 31 October, Lady D'Urban says 'about the 10th. I shall believe when he is off'.<sup>1</sup>

The implication is clear: had D'Urban visited the frontier in early 1834 and initiated the new treaty and resident agent system, war and its consequences might have been avoided.

This view had the advantage of hindsight, and was taken only in relation to the war of 1834-5 and the frontier with very little consideration for domestic conditions at the Cape. Moreover, it is clear from the initial successes the invading tribes enjoyed in December, 1834, that no one, least of all the military, expected an attack of such

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<sup>1</sup>W.M. Macmillan, Bantu, Boer and Briton (1963 edition), pp.120-1. D'Urban arrived in Grahamstown on 20 January, 1835, having left Cape Town by ship on 8 January.

proportions. Undoubtedly a state of complacency had been engendered by the fact that the last frontier war had ended almost sixteen years previously in 1819. It is equally clear from a perusal of the correspondence between D'Urban and his subordinates on the eastern frontier - Campbell,<sup>2</sup> the Civil Commissioner for both Albany and Somerset, and Lieutenant-Colonel Henry Somerset,<sup>3</sup> Commandant of the Frontier - that the Governor believed the frontier could be adequately controlled by them until he arrived to inaugurate the new system. Indeed, D'Urban allowed Somerset much discretion of action, as his memorandum of 6 June, 1834,<sup>4</sup> clearly stated, and he obviously put his trust in that officer's considerable experience on the frontier. Unfortunately, the military force at the Cape had been considerably reduced<sup>5</sup> in the post-Napoleonic period by the British government, and the force on the frontier was inadequate to check cattle depredations, as Somerset well knew.<sup>6</sup> The military only had the power to retaliate, and in turn invite further raids from kraals wrongly punished and tribesmen annoyed by constant military harassment. It is also possible that one of the invisible effects of this military system was the creation of the fear among the border tribes that they were in danger of being 'broken-up'

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<sup>2</sup>Duncan Campbell (1781-1856), leader of a party of 1820 settlers, farmer and colonial civil servant until his retirement in 1838. See D.S.A.B., Vol. III, pp.123-4.

<sup>3</sup>Lieut.-Col. Henry Somerset (1794-1862), the eldest son of Lord Charles Somerset, arrived at the Cape in 1818 and saw extensive service on the Eastern Frontier until his appointment to India in 1852. See D.S.A.B., Vol. II, pp.691-3.

<sup>4</sup>P.P., 1837, XLIII, (503), pp.129-30, Memorandum to Somerset, 6 June, 1834.

<sup>5</sup>The regular British army establishment at the Cape in 1834 was 1,789 men, with 1,034 stationed in Cape Town, compared to a total of 4,000 men in 1806. The British officered but locally recruited Cape Mounted Rifles was stationed on the frontier, and comprised 234 soldiers, 35 N.C.Os and officers and 200 horses. Galbraith, *Reluctant Empire*, p.35. See also P.P., 1835, XXXIX, (252), p.133, D'Urban to Spring-Rice, dated 21 January, 1835.

<sup>6</sup>While on leave in England in 1833, Somerset had submitted to the Colonial Office 'Remarks on the Military Defence of the Eastern Frontier of the Cape of Good Hope, shewing the necessity of a encreased [sic] Mounted Force for its protection and efficient security', dated 20 March, 1833. (C.A., G.H. 1/97, pp.114-136.)

in the same manner as the Khoikhoi had been.<sup>7</sup>

Overwhelmed with the problem of the frontier, Somerset in a letter to D'Urban dated 6 June, 1834, declared that the situation "require[s] Your Excellency's immediate and personal superintendence".<sup>8</sup> D'Urban's reply of 13 June, 1834, pointed out quite clearly:

My absence from the seat of government at this moment, when so many great public changes are in process and imperatively demand my personal superintendence is next to impossible, and can only be warranted by some condensed and tangible danger on the frontier districts, amounting to, or immediately threatening, a state of war...I cannot discover it distinctly made out in your communications...I will request you to state, in the minutest detail, every circumstance which induces you to think my coming necessary.<sup>9</sup>

Somerset's reply of 20 June, 1834, failed to supply the reason. He submissively declared: "The full instructions laid down and transmitted to me in Your Excellency's memorandum of 6 June will, I trust, preclude the necessity of your quitting Cape Town at this inconvenient moment."<sup>10</sup>

What many historians fail to take into account when they consider D'Urban's delay in touring the frontier is the fact that he had a major problem on his hands in Cape Town, notably the emancipation of the slaves, and the establishment of the system of apprenticeship.

Slaves had been introduced at the Cape from Mozambique, Madagascar, India and Batavia soon after van Riebeeck landed there in 1652. The majority of the slaves were employed around Cape Town and Stellenbosch, with their numbers decreasing with the reduction in agricultural activity to the north and east.<sup>11</sup> Although there were many skilled

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<sup>7</sup>See C.H.B.E., Vol. VIII, p.307.

<sup>8</sup>P.P. 1837, XLII, (503), pp.130-1, Somerset to D'Urban, 6 June, 1834.

<sup>9</sup>Ibid., pp.131-2, D'Urban to Somerset, 13 June, 1834.

<sup>10</sup>Ibid., pp.133-4, Somerset to D'Urban, 20 June, 1834.

<sup>11</sup>The Population Return included in the Cape of Good Hope Blue Book for 1833 gave the breakdown of the slaves in the districts as follows:

slave craftsmen in centres like Cape Town, the majority of slaves were employed as labourers in viticulture in the Western Province, and as herdsman by the pastoral farmers in the north and east. In the interior the vast distances between farmers and the centres of civil administration meant that the masters in practice had an almost complete control over their slaves and their welfare.

The Cape was only one of twenty slave colonies in the British Empire. In the small sugar islands of the West Indies, the economy of the plantations was sustained by gangs of slaves usually controlled by managers, the appointees of absentee landlords. At the Cape a more complex society was created from the varied agricultural pursuits of the colonists, the fact that the owners often had direct and frequent contact with their slaves, and by the vast distances between scattered farms in the interior. Yet in directing the implementation of the policy of slave amelioration required by the resolutions of the House of Commons in May, 1823, the British government consistently failed to heed repeated representations made by Governors Somerset, Bourke and Cole to take these different circumstances into account.

The first deliberate application of a policy of amelioration at the Cape was directed by Somerset in his proclamation of 18 March, 1823,<sup>12</sup> which both anticipated the resolutions in the Commons of May, and took the interests of the slave-owners into account. Whether Somerset issued his proclamation in a deliberate attempt to pre-empt

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Western Province

Cape and District: 10,202; Stellenbosch 8,597; Swellendam 3,094; Worcester 4,427. Total 26,320.

Eastern Province

Albany 151; Somerset 1,431; Uitenhage 1,298; Graaff-Reinet 2,809; George 2,230. Total 7,919.

Grand Total: 34,329.

C.G.H.B.B. for 1833, Return of the Population, p.141.

<sup>12</sup>See Theal, R.C.C., Vol. XV, pp.336-42 for the text. The proclamation arranged for the admission of slaves into the Christian Church and their marriage by Christian rites. It also sought to validate the oath of a Christian slave in a court of law, to ensure adequate provision for food and clothing, to limit working hours and the frequency and severity of punishments, and to protect the slave owner from 'unfounded or frivolous' complaints.

the more thorough-going programme required by Parliament is uncertain,<sup>13</sup> but Bathurst considered it an act of evasion, and required the introduction at the Cape of a new ordinance based on the 1824 Order-in-Council for Trinidad.<sup>14</sup> Chief Justice Truter accordingly drew up Ordinance 19 of 1826,<sup>15</sup> but omitted, for example, the compulsory keeping of record books for quarterly inspection by a magistrate to accommodate conditions at the Cape. Opposition, both in the Colony and in the Governor's Council of Advice, meant that the ordinance remained in abeyance for three years until the British government took the initiative in February, 1830, and issued a general Order in Council<sup>16</sup>

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<sup>13</sup>I. Edwards, Towards Emancipation, p.91, suggests that this was indeed the case. See also Somerset's explanation for his action in R.C.C., XV, pp.354-6.

<sup>14</sup>See V. Harlow and F. Madden, British Colonial Developments, 1774-1834, Select Documents, pp. 567-73, for the draft Order-in-Council for Trinidad.

<sup>15</sup>Ordinance 19 of 1826 provided for the appointment of a Guardian of Slaves with assistants in the districts to protect the interests of slaves. It also recognized the legal right of slaves to own property, the acceptability of their evidence in court on an equal footing with that of freemen, and the necessity for Sunday as a day of rest, except for domestic labour and for defined work of importance like livestock supervision, field labour during harvest time or in times of crisis. Sunday markets were abolished, slaves were encouraged to attend Church, and were also permitted to accuse their masters in open court of illegal punishment "if the Marks or Traces of recent Flogging or Laceration, shall appear on the Person of [the] Slave..." Frivolous complaints rendered the slave himself liable for punishment. The ordinance further allowed the sale of slave children independently of their mothers after the age of 10 instead of their 16th birthday as required by the Trinidad Order. (See R.C.C., XXVI, pp.468-91.)

<sup>16</sup>By the Order-in-Council of 2 February, 1830, the local ameliorative legislation of the colonies of Trinidad, Berbice, Demerara, St. Lucia, the Cape and Mauritius was revoked in favour of the provisions of the Order-in-Council. This Order established that masters and overseers were prohibited from carrying a whip as a symbol of authority, or to galvanise labourers in the fields to greater exertions; the punishment of male slaves by whipping was limited to 25 lashes in the presence of a free person or six slaves and after at least 24 hours had elapsed since the commission of the offence. Corporal punishment was prohibited for female slaves. A detailed punishment record book was to be kept, listing the punishment inflicted and by whom it was witnessed; illiteracy was to be no excuse for failure to keep such a register. Twice annually these books were to be presented to the Protector (formerly Guardian in the 1826 Ordinance) or an Assistant Protector of Slaves, before whom an oath as to the record's accuracy was to be sworn. Defaulters were

for implementation both in the West Indies and at the Cape, with instructions for its immediate implementation. It became law at the Cape on 26 August, 1830. The inconveniences which Truter had carefully avoided in 1826 were thus imposed in 1830, and the enforcement of its provisions led to civil disorder in Stellenbosch in June, 1831.

By early 1832 it was learnt at the Cape that the British government had issued a further Order in Council in November, 1831, to apply more stringently certain provisions of the Order of 1830, particularly those concerned with Sunday work, the diet of the slaves and the authority of the Protector. What was not generally realised at the time was that the Governor, Sir Lowry Cole,<sup>17</sup> reviewed these new measures together with a further Order in Council, dated 2 February, 1832, which authorized the modification of the general Order to meet the special problems of the Cape.<sup>18</sup> The Colonial Office had recognized at too late a date that the Cape posed questions of peculiar difficulty. The policy of amelioration had antagonised the colonists, especially in the remote frontier districts where illiterate farmers faced the problem of maintaining record books; many of them did not possess the six slaves required to witness the act of punishment, and twice-annual journeys to the nearest Assistant Protector to have the record books checked, posed considerable problems of security, both to their isolated homesteads and to their herds of cattle. It also aroused all their latent antagonism of outside interference by an alien government in Cape Town, and fuelled their "inherent negrophobia by the attack on the inalienable rights and domestic authority of the master."<sup>19</sup>

Galbraith saw the issues confronting D'Urban clearly. He wrote that from a study of Wade's despatches D'Urban "must have concluded that the serious danger in the first months of his administration would

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liable to a minimum fine of £10 and a maximum fine of £50. The governor was particularly instructed to publish the Order within a month of its receipt, and it was to become law two weeks thereafter. See K.S. Hunt, Sir Lowry Cole, A Study in Colonial Administration, p.115.

<sup>17</sup>Governor of the Cape, September, 1828 - August, 1833.

<sup>18</sup>See Hunt, *op.cit.*, p.119.

<sup>19</sup>Edwards, Towards Emancipation, p.212.

be the reaction of the settler population to the abolition of slavery... From the perspective of Cape Town, the emancipation issue seemed paramount. Petitions by slave proprietors, while couched in moderate terms, clearly demonstrated that this was a potentially explosive issue."<sup>20</sup> Indeed, in a despatch to Goderich,<sup>21</sup> dated 1 April, 1831, Cole had informed his superior that enforcement of the unpopular Order in Council of February, 1830, in the existing colonial situation rendered rebellion possible, and he feared that with the forces at his command he would be unable to contain it.<sup>22</sup>

Cole confronted two incidents of civil unrest in connection with the policy of amelioration. When in April, 1831, punishment record books for slaves were first due for inspection in terms of the Order in Council of 2 February, 1830, a mob at Stellenbosch prevented slave owners from complying. The Assistant Protector in Stellenbosch thereupon called on the Resident Magistrate to assist him. The request was ignored, as was the continuing disorder throughout the remainder of the week set aside for the inspection of the punishment books. No attempt was made by the Magistrate to inform the government in Cape Town, twenty-five miles away, of the situation. Cole handled the matter firmly. After an enquiry had established that the Magistrate had failed to act, not only because he was afraid but also because he tacitly approved of the mob's opposition to the law, Cole dismissed the Magistrate. At the next circuit court session in Stellenbosch, seven of the principal rioters were prosecuted and fined.<sup>23</sup>

The following April news of the Order in Council of November, 1831, was generally circulated at the Cape. This led the pro-colonist and bilingual newspaper De Zuid Afrikaan to hint obtusely of "the rights of Dutch Burghers" and "the length of Boer rifles",<sup>24</sup> and also

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<sup>20</sup>Galbraith, Reluctant Empire, p.103.

<sup>21</sup>Secretary of State for War and the Colonies, April - August, 1827, and again November, 1830 - April, 1833.

<sup>22</sup>Cole to Goderich, 1 April, 1831, quoted by Hunt, Sir Lowry Cole, p.118.

<sup>23</sup>Hunt, op.cit., pp.118-9.

<sup>24</sup>De Zuid Afrikaan, 25 May, 1832, quoted by E.A. Walker, History of South Africa (1928 edition), p.174.

to a meeting of a group of Dutch speaking farmers at Koeberg, about fifteen miles from Cape Town. At this meeting they passed resolutions which suggested future resistance to new slave legislation. The meeting was given publicity and support by De Zuid Afrikaan. Similar resolutions were passed at a meeting in Stellenbosch and other districts prepared to follow suit.

Concerned lest the agitation spread, Cole presented a hastily drafted ordinance to his Council of Advice. The ordinance declared that if resolutions at public meetings were passed which brought the government into disrepute, or excited agitation against any act of the government, all persons participating were liable to prosecution and four months imprisonment. By a Proclamation dated 6 June, 1832, Cole also reserved the right to banish from the Colony any person whose conduct was deemed to be prejudicial "to peace and security";<sup>25</sup> those who declared their intention to defend their property against the execution of the law were included under this proviso. While the British government sanctioned the ordinance, they refused to confirm the Proclamation. Nevertheless the right to free speech at the Cape was significantly curtailed.

There were also the corollaries to the intransigence of slave owners - the unrest and violence of the slaves themselves, who numbered roughly 35,000, concentrated in the Western Districts, and the colonial fear of such violence.

The dangers of a slave insurrection seemed very real. A rebellion had occurred in Jamaica in December, 1831, during which 12 whites had been killed and property worth an estimated £800,000 destroyed. Although the material damage has been dismissed as insignificant,<sup>26</sup> the psychological implications were serious. In the charged atmosphere generated by successive and unpopular Orders in Council to ameliorate the condition of the slaves, and heightened by the realisation that emancipation was near, there was every reason for D'Urban to believe that colonial common sense or the passivity of the slaves would be sacrificed in a riot of released emotions. In a slave-owning society with

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<sup>25</sup>C.L., G.G., 8 June, 1832.

<sup>26</sup>I. Edwards, Towards Emancipation, p.142.

its casual brutality and thoughtless possession of human life, the fear of slave disorders was often close to the surface. This apprehension had been voiced by Anders Sparrman as far back as the 1780s when he described how on the way to Paarl he slept with a knife under his pillow because of the "many murders that to my knowledge were committed in this country."<sup>27</sup>

D'Urban was well aware of these facts of life in a slave-owning colony. He had spent over ten years in various executive positions in the West Indies and the former Dutch South American colonies of Essequibo, Demerara and Berbice.

These colonies had had their share of slave unrest, a significant fact of life when it is considered that out of a total population of 77,031 in Demerara and Essequibo in 1811, 71,180 were slaves.<sup>28</sup> In 1763 the Negro slaves in Berbice had come out in open insurrection against the Dutch; in 1772 there had been a revolt in Essequibo, and as recently as August, 1823, a tense situation, resulting from rumours that emancipation was imminent, had led to a slave revolt on the east coast of Demerara.<sup>29</sup> The Cape in October, 1808,<sup>30</sup> had experienced revolt by over 300 slaves in the Malmesbury District, and again in 1823 there had been a small slave rising in the Bokkeveld of the Worcester District.<sup>31</sup>

Thus D'Urban had ample reason to fear that emancipation would be attended by civil unrest, particularly in the Western Cape. The passage of events proved him wrong. There was no organised hostility, and the worst he had to face was acrimonious criticism of the Emancipation Act

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<sup>27</sup>Anders Sparrman, A Voyage to the Cape of Good Hope towards the Antarctic Polar Circle and Round the World (1786), Vol. I, pp.56-7.

<sup>28</sup>Menezes, British Policy towards the Amerindians in British Guiana, p.80.

<sup>29</sup>Ibid., p.46. As Dr Menezes makes clear, the slave owning society in these colonies was able to survive and flourish primarily because they implemented a calculated policy of befriending the local Indians and using them to hunt down escaped slaves or in the suppression of rebellion.

<sup>30</sup>See Theal, R.C.C., Vol. VI, pp.392-4.

<sup>31</sup>E.A. Walker, History of Southern Africa (1972 impression), p.171.

which was soon dissipated, and a gloomy and fatalistic acceptance of events by the slave owners. The major crisis developed in the east where the frontier tribes, harassed by the military, weakened by drought and angered at the persistent non-arrival of the Governor, invaded the Colony on 21 December, 1834. With regard to D'Urban's critics and his delay in visiting the frontier, it is as well to remember a comment James Stephen made in a minute dated 7 May, 1841, with reference to some of the witnesses before Buxton's Aborigines Committee: "The wisest governor may judge erroneously, but the wisest stranger to the country must guess erroneously - at least the chance of guessing right is so slight as to be evanescent."<sup>32</sup> Historians are, after all, strangers to the past with the advantage and sometimes arrogance of hindsight. D'Urban was the 'man on the spot' with the heavy responsibility of deciding the priority of the many problems which required his personal attention.

The extent to which D'Urban was concerned with the problem of emancipation is indicated by the fact that at the first meeting of the Executive Council, after he had presented his Commission and Royal Instructions, the first subject he brought to the Council's notice was "the important subject of the Slave Abolition Act of 28 August, 1833" and the news that "the Report and Schedules prepared by the Registrar of Slaves would now enable the Auxiliary Commissioners of the Colony to commence their labours."<sup>33</sup> Although no instructions had been received from the Colonial Office to authorise the appointment of the Auxiliary Compensation Commission, D'Urban was anxious for the Auxiliary Commissioners to begin their work of appraising the value of the slaves at the Cape. On the strength of a circular from the Commissioners of Compensation in England to the Auxiliary Commissioners of Compensation in the West Indies, which he had received in a "demi-official manner" when visiting the Colonial Office shortly before leaving London, and on the strength of the fact that the Auxiliary Commissioners "appeared to be ipso facto established by the 38th Clause of the Act of

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<sup>32</sup>Quoted by Paul Knaplund, James Stephen and the British Colonial System, 1813-47, p.48.

<sup>33</sup>C.A., Ex. Co., I, 19 March, 1834. The British Act of Emancipation was listed as III & IV W.IV. cap. LXXIII. A.R. 1833.

Parliament itself, and as the Registrar's Report and Schedule...contained sufficient data to enable the Committee to begin its labours",<sup>34</sup> D'Urban suggested that the Commission be organised and immediately empowered to begin its task of appraisal. At the Cape the size of the Colony made it impossible for any scheme to be organised on the same basis as the West Indies, where one committee sitting in the principal town could complete the work. Instead, members of the Commission were sent to the various districts in a country of approximately 200,000 square miles to perform their task. Thus the work was of necessity slow and laborious.

The mechanisms by which His Majesty's Government envisaged leading slaves from servitude to freedom were outlined by the Secretary of State for War and the Colonies, Edward Stanley, in the House of Commons on 14 May, 1833. Slavery was to be abolished throughout the British Empire, but for a period of 12 years slaves were to be apprenticed to their owners. During this period, and if they were classified as praedial labourers, slaves were to spend three-quarters of their time working for their masters, and one-quarter working at a fixed rate of wages to purchase their freedom. The master was to provide food and clothing, and all children were to be freed on condition they were maintained by their parents. Those children not provided for were to be apprenticed, males until the age of 24 and females until they were 20. A parliamentary loan of £15 million was to secure a part of the value of the slave to the master, but the power of domestic punishment was forbidden, and "respectable persons wholly unconnected with the colonies were to be sent out to act as district magistrates and other officers, for the protection of the negro and the preservation of peace."<sup>35</sup>

The West Indian interest persuaded the British government to grant £20 million as a gift to compensate slave owners, while the humanitarians induced the government to reduce the length of the apprenticeship of praedial slaves to seven years and of non-praedial slaves to five years. The Cape opted for non-praedial apprenticeship, as it

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<sup>34</sup>Ibid.

<sup>35</sup>Parliamentary Hansard, XVII, 1193-1231, 14 May, 1833. Quoted in Edwards, Towards Emancipation, p.146.

was argued that the farmers were too poor to pay wages to apprentices, while the great distances between farms and towns made it difficult for apprentices to find alternative employment. Within five years humanitarian pressure in Parliament, the disapproval of the system reflected in public opinion, and the poor functioning of the system induced the West Indian slave colonies with legislatures to enact the abolition of apprenticeship on 1 August, 1838, and this decision was soon applied to Crown Colonies.<sup>36</sup>

The mechanism to ensure that the compensation money would be fairly apportioned and distributed among the colonies was the Compensation Board in London. Co-ordinated activity with the colonies was achieved through Auxiliary Compensation Boards appointed in each of the colonies. The system of compensation was based upon the principle of an ad valorem and not a per capita value of slaves. The Auxiliary Compensation Board at the Cape had to submit to London an estimate of the number of slaves together with an assessment of their average value, calculated on the prices paid for slaves during the eight years ending 20 December, 1830. In the absence of sufficient Commissioners to undertake the task of assessment, Field Cornets were often appointed to perform this duty in the districts. The whole exercise at the Cape was hampered by the drought of 1834 which scattered the colonists and their apprentices beyond the colonial border in search of water and grass for their stock. The war of 1834-5 further delayed the process. Consequently, the returns were only received in London in May, 1836, and the Board in London made their first award for the Cape in November, 1836.

The compensation of slave owners for the loss of their slaves was in part a palliative and in part the practical expression of the traditional English respect for property and the rights of ownership. But the British government emphasised the fact that the compensation money was granted as a gift from the British nation, and was not in expiation of any sense of guilt for the abolition of the institution of slave ownership.

Figures for the number of slaves at the Cape on 30 November, 1834, and the amount of compensation due there differ according to the sources,

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<sup>36</sup>Ibid., p.149.

and indicate in part the inevitable degree of administrative confusion experienced in carrying out the emancipation of the 780,993 slaves in the Empire who had an estimated value of £45,281,738:15:10.<sup>37</sup> Theal gave the number of slaves in the Colony as 39,021, of whom 3,176 were old or unfit for work and consequently of "no pecuniary value". Appraisement rolls for the remaining 35,745 valued the compensation required at £3,041,290:6:0.<sup>38</sup> Cory agreed with Theal's figures, but noted that they differed from the figures of the Board in London, which gave the total number of slaves as 38,427 with an estimated value of £2,824,224:7:9, "showing an increase of 2,682 in the number of slaves, and yet a decrease of £217,035:18:3 in the estimated value."<sup>39</sup> While Dr Edwards obtained her information concerning the number of slaves from the London list, she declared that the Cape claimed £2,352,655:10:0 in compensation.<sup>40</sup> The Cape of Good Hope Blue Book for 1834 gave the total number of slaves, amended to read apprentices, as 36,169.<sup>41</sup> Its total for 1833 had been 34,329.<sup>42</sup> With so many different totals, it is small wonder that the question of compensation became so vexed at the Cape.

With only £20 million in compensation money, the Commissioners in London could afford to pay slave owners about one-third the assessed value of each slave.<sup>43</sup> The actual lodging of claims at the Cape for compensation money was complicated, particularly for illiterate farmers, and because consideration had to be taken of the fact that 25% of the slave property at the Cape was heavily mortgaged, and also that some slaves had already partly paid for their emancipation.<sup>44</sup> Moreover,

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<sup>37</sup>Ibid., p.189.

<sup>38</sup>Theal, Vol. I, p.75.

<sup>39</sup>Cory, Vol. III, p.42.

<sup>40</sup>Edwards, Towards Emancipation, p.189.

<sup>41</sup>C.G.H.B.B. 1834, Return of the Population, p.139.

<sup>42</sup>C.G.H.B.B. 1833, Return of the Population, p.141.

<sup>43</sup>O.H.S.A., Vol. I, p.309.

<sup>44</sup>Cory, Vol. III, p.43.

the British Treasury laid down that all government expenses connected with compensation were first to be deducted<sup>45</sup> from the amount awarded to the Colony, and that all disbursements of compensation money would only be made in London.

While West Indian slave owners, often absentee landlords living in England, found this convenient, claimants at the Cape had to trust the agents. Inevitably there was much speculation in compensation claims, with ignorant farmers often tricked into parting with their claims at low rates. As a result of such practices many Dutch claimants received much less than their legal amount, and they venomously blamed their misfortune on the British government. Others refused to accept any compensation as an act of protest against the way in which emancipation had been carried out. When the whole process of compensation was ended in 1845 and all unclaimed compensation money was appropriated to the reduction of the national debt in Britain the Cape Colony furnished £5,900<sup>46</sup> of this money.

Although the financial losses sustained by the Dutch farmers in the Eastern Districts as a result of emancipation are an insufficient explanation of the Great Trek which began almost as soon as the frontier war of 1834-5 had ended, but which had been seriously considered prior<sup>47</sup> to that war, it is clear that the trekkers deemed the whole process of emancipation and its implications as important reasons. This was made clear in Retief's Manifesto of 22 January, 1837,<sup>48</sup> in which the underpayment of slave compensation was linked to "the turbulent and dishonest conduct of vagrants", and the "unjustifiable odium which has been cast upon us by interested and dishonest persons, under the name of religion, whose testimony is believed in England to the exclusion of all evidence in our favour." Of great significance was Retief's assertion that the trekkers were fully determined to "preserve proper relations between master and servant". The idea of equality before the law of white and

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<sup>45</sup>Theal, Vol. II, p.77.

<sup>46</sup>Edwards, Towards Emancipation, p.195.

<sup>47</sup>See Chapter 7.

<sup>48</sup>Manifesto of the Emigrant Farmers, G.W. Eybers, Select Constitutional Documents Illustrating South African History, p.143.

coloured established by Ordinance 50 of 1828 and after emancipation, extended to apprentices, was an alien concept to the Dutch frontier farmers imbued with their strongly paternalistic Calvinism.

The provision for compensation of slave owners was one facet of the British government's emancipation programme. At the Cape the protection of roughly 35,000 apprentices spread over 200,000 square miles was entrusted to eight Special Magistrates sent out from England. At the Executive Council meeting of 10 November, 1834, D'Urban informed the Council that despite repeated reminders to the Colonial Office of the necessity for an early transmission of the requisite authorities and instructions to introduce the system by 1 December, 1834, the date established for the inauguration of the apprenticeship system, no news had been received and only one Special Magistrate had arrived in the Colony. While awaiting the Order in Council "under which alone the necessary legislative enactments could be introduced and passed for the governance of the apprentices under the Act as well as of any competent authority for the issue of commissions to the Special Justices",<sup>49</sup> D'Urban suggested the provisional commissioning as 'specials' of nine Resident Magistrates and five salaried Justices of the Peace of the colonial civil service to help fill the twenty-two stations throughout the Colony deemed necessary to implement the system of apprenticeship. Originally the intention of the British government had been to send out Special Magistrates to all slave-owning colonies as it was believed that such magistrates would be unaffected by parochial considerations and less likely to be influenced in their duty than magistrates appointed locally. The impartiality which these arrangements was designed to achieve was clearly undermined by the limited number of Special Magistrates the British government were prepared to appoint, and the measures D'Urban and his Council were forced to adopt.

The absurdity of the situation was reinforced by the inadequate financial provision made for Special Magistrates. The British Treasury paid these officials, and initially they were to be paid £300 per annum. On representation it was decided that an additional £150 should form an allowance to cover travelling expenses and rent. At the Cape this took effect from 30 March, 1835.<sup>50</sup>

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<sup>49</sup>C.A., Ex. Co., I, 10 November, 1834.

<sup>50</sup>Edwards, Towards Emancipation, pp.183-4.

While the colonial civil servants who were commissioned 'specials' received the £150 allowance, they were entitled to no further remuneration. Van Ryneveld of Clanwilliam and Meintjes of Beaufort pointed out indignantly that while they performed the functions of three separate offices,<sup>51</sup> the Special Magistrates from England received almost the same salary for acting in one capacity.

As a result of the programme of retrenchment in the colonial civil service introduced by 1 July, 1834, the position of Civil Commissioner and Resident Magistrate had been merged in many districts, while in others Resident Magistrates had been appointed Assistant Civil Commissioners. They were now expected to implement the provisions of the Cape Apprenticed Labourers Ordinance<sup>52</sup> of 5 January, 1835. Dr Edwards remarked: "It says much for the Resident Magistrates that they shouldered this additional burden, carrying out their duties as efficiently, and in some cases with more humanity than magistrates sent out from England."<sup>53</sup>

The tardiness with which the Colonial Office had responded to D'Urban's requests for the authority to implement emancipation and apprenticeship was principally responsible for the fact that the Apprenticeship Ordinance only came into effective operation five weeks

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<sup>51</sup>Edwards, p.184, placed Van Ryneveld in Clanwilliam. He and Meintjes must have been Assistant Civil Commissioners and Resident Magistrates because neither of them appear as Civil Commissioners in the list in P.P., 1837, VII, (425), pp.151-9.

<sup>52</sup>The ordinance was introduced into the Legislative Council on 3 December, 1834, petitions were considered on 27 December, and the Council resolved itself into Committee to work out its provisions on 30 and 31 December, 1834, and 2 January, 1835, and the Ordinance was finally passed on 5 January. Its full title was 'Ordinance enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereon, For giving due effect to the Provision of an Act of Parliament passed in the third and fourth years of the Reign of His Majesty, King William the Fourth, entitled "An Act for the abolition of Slavery throughout the British Colonies: for promoting the industry of the Manumitted Slaves: and for compensating the Persons hitherto entitled to the services of such slaves" and dated 28th Day of August, 1833'. Extraordinary Government Gazette, 7 January, 1835. The Ordinance was listed as 1 of 1835.

<sup>53</sup>Edwards, op.cit., p.182.

after 1 December, 1834. Moreover, by 5 January, 1835, the eruption of the tribes across the eastern frontier had plunged the Colony into a war of devastating proportions, with the civil administration uniting with the military authorities to repel it, while civil government and civil law in Albany, Somerset, Uitenhage, Graaff-Reinet, George and Beaufort had been suspended by D'Urban's proclamation of martial law on 3 January, 1835.<sup>54</sup>

It was to D'Urban's credit that he remained in Cape Town for eleven days after news of the invasion had reached him on 28 December, 1834,<sup>55</sup> to see the Apprenticed Labourers Ordinance firmly into law. Thereafter, he embarked for Port Elizabeth and the frontier, and was to spend the rest of 1835 grappling with its complexities. Implementation of the ordinance was left to the Special Magistrates under the supervision, in the first instance, of Colonel John Bell, head of the Provisional government.

But in such circumstances the failure of the apprenticeship system at the Cape was hardly surprising. For example a serious violation of the Apprenticed Labourers Ordinance grew up in the abuse of the apprenticeship of destitute children. The Ordinance vested the power to apprentice destitute children in the Special Magistrate, but only where a real case of destitution existed as in the case of dead parents or where the parents were obviously unwilling to shoulder the responsibility of maintaining their children. A liberal interpretation of this ruling led to the apprenticing of 1,464 children by April, 1838, and of these 1,274 were the responsibility of magistrates sent from England.<sup>56</sup> Even the children born since the abolition of slavery were sometimes apprenticed in violation of the spirit if not the letter of the Ordinance.<sup>57</sup> The British government was soon informed of this abuse, and D'Urban was accordingly instructed to free all children who had been wrongly apprenticed. To avoid further pressure on the structure of civil

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<sup>54</sup>See P.P., 1837, XLIII, (503), pp.52-3.

<sup>55</sup>Theal, Vol. II, p.93.

<sup>56</sup>Edwards, Towards Emancipation, p.186.

<sup>57</sup>"No child born of any female labourer, which labourer was herself the child of an apprenticed labourer, shall be bound an apprentice under the provisions of this Ordinance. Cap. IX (2) Ordinance 1/1835.

administration, D'Urban chose to abolish the whole system of child apprenticeship on 1 December, 1838, the day set aside for the ending of apprenticeship generally.

The Act of Slave Emancipation passed by the British Parliament in August, 1833, allowed the colonial legislatures wide power<sup>58</sup> in the actual drafting of the Ordinance under which the system of apprentices and Special Magistrates was to be inaugurated.

The harshness of the Cape enactment of 5 January, 1835, has been criticised,<sup>59</sup> and indeed the Colonial government seems to have seized the opportunity it presented to regain ground lost during the furore over the Vagrancy Ordinance,<sup>60</sup> to introduce stringent measures for disciplining apprentices and to appease colonial demands for a secure supply of labour and the protection of the interests of the master. Two days desertion, for example, could cost an apprentice two weeks hard labour and 15 stripes, while refusal to work merited either 30 lashes or a month's hard labour.<sup>61</sup> In this respect it would be well to remember England's harsh criminal law, which until its reform by Robert Peel as Home Secretary in 1818, imposed the death sentence for over 200 offences, including stealing five shillings from a shop. Imprisonment for debt was only abolished in 1869, transportation continued until 1867, and executions were carried out in public until

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<sup>58</sup>See, for example, C.A., Ex. Co., I, 10 November, 1834, in which Stanley's despatch to Wade, dated 5 September, 1833, was quoted: "On reference to the Act you will perceive that it does not interfere with the appropriate duties of the Colonial Legislatures, beyond the strict limits of the necessity by which that interference was dictated. It indicates a series of general rules by which the future relations of the employer and of those who are to take (sic) in his service are to be regulated, referring to the general assemblies, where they exist, the office of supplying, by local enactments, all subordinate but necessary details. In those colonies which are subject to the Legislative authority of His Majesty in Council, the act has referred to His Majesty acting with the advice of His Council, the corresponding duty." By this date the Cape had a Legislative Council inaugurated by D'Urban, on the Crown's instructions, on 2 April, 1834.

<sup>59</sup>Edwards, *op.cit.*, pp.177-82.

<sup>60</sup>See pp.113-20.

<sup>61</sup>Edwards, *op.cit.*, p.179.

1868.<sup>62</sup> Legal severity for much of the Nineteenth Century was universal.

By the terms of the Ordinance of 5 January, 1835, the twenty-two Special Magistrates each presided over a district where a police settlement and a 'house of correction' were to be established. A number of police sergeants and constables "as the Governor shall from time to time see fit to authorize ..." <sup>63</sup> were appointed by the Special Magistrate to issue summonses, execute arrests, superintend the work of the penal gang, composed of apprentices sentenced to hard labour for their misdemeanours, and generally to provide the physical force to back the authority of the Special Magistrate. On two days a week he was required to hear cases brought before him, while once in every six months he was to visit every farm which employed twenty labourers or more to hear cases.

The Special Magistrate possessed wide powers, particularly the power of summary jurisdiction in all the numerous cases of default, misdemeanour, idleness, desertion and conspiracy listed in the Ordinance, with the exception of sentences which imposed transportation or capital punishment.

The Cape's Apprenticed Labourers Ordinance has also been severely criticised for the different role Special Magistrates were called upon to perform in comparison to the Guardians or Protectors of slaves, and the legal weighting it gave to the masters in the initiation of complaints. Edwards declared:

...henceforward masters would generally act as plaintiffs accusing their apprentices of vagrancy...indolence or of contumacious disobedience, instead of defendants called to answer charges of cruelty initiated by the Guardians on the evidence of their slaves. The domestic authority of the master had gone, and with its passing had also gone the earlier assumption that the labourer stood in peculiar need of legal safeguards. <sup>64</sup>

Nevertheless, the Ordinance was important. Underlying it was the principle that the apprentice was no longer a mere chattel of inferior

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<sup>62</sup>Anthony Wood, Nineteenth Century Britain, pp.65-6.

<sup>63</sup>Ordinance 1/1835, Cap. I (7).

<sup>64</sup>Edwards, Towards Emancipation, p.181.

status. Emancipation granted him the rights of citizenship and established the principle of equality before the law, and this in itself was a considerable achievement. The master no longer had powers of domestic coercion, but had to rely on the authority of the Special Magistrate. An apprentice was now able to initiate a civil suit against his master, for damages, if he had been assaulted or cruelly used. If the master was convicted, then the labourer could be discharged from his apprenticeship by order of the Court before which the case had been heard.<sup>65</sup> Moreover, an attempt, however imperfectly done, had been made to accord simple human dignity to apprenticed labourers. On the death of his employer, the Ordinance vested the services of the labourer in the person who, by will or descent would have acquired the labourer as his slave, had the Ordinance not been passed. But it also allowed the inheritor to alienate by sale, and in accordance with colonial law, the services of such apprenticed labourers. This was an aspect of the Ordinance to which the Colonial Office soon objected. The concession to human dignity, insufficient in the circumstances, was made in the clause which stated, "Provided always that no laborer [sic] shall be publically or privately exhibited, or be liable or compelled to attend in person at the time or place of any sale or transfer of his services."<sup>66</sup>

Although Dr Edwards criticised the Colonial Office for failing to pick up the severity apparent in Ordinance 1 of 1835, and stated that it also escaped the "censure of the humanitarians",<sup>67</sup> the Colonial Office did attempt to implement some change in it.

Shortly after his appointment to the Colonial Office, Charles Grant, later Lord Glenelg, informed D'Urban by a despatch dated 30 April, 1835, that the Cape's Apprenticed Labourers Ordinance had received the Crown's conditional approval. On one issue Grant indicated that an amendment was required. He noted with displeasure that under the Ordinance the services of any labourer could be seized and taken

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<sup>65</sup>Ordinance 1/1835, Cap. VI (14).

<sup>66</sup>Ordinance 1/1835, Cap. X (2).

<sup>67</sup>Edwards, op.cit., p.179.

in execution against his employer or sold under process of law,<sup>68</sup> which at the Cape was still of Roman-Dutch origin, and had been guaranteed under the Articles of Capitulation.<sup>69</sup>

Grant declared: "A man accustomed to work on a particular farm, and having there his home, connections and attachments, local and personal, ought not to be detached from it in satisfaction of the debts of his Employer."<sup>70</sup> He also made the observation that not even in the West Indies did the law admit of such a separation. D'Urban was accordingly instructed to propose to the Legislative Council an explanatory ordinance to the effect that "no Labourer habitually employed on any farm, should be liable to be removed from it in pursuance of any judgement or execution against the Employer, but that, in all such cases, the land and the services of the attached Husbandmen must be seized and sold together." The Secretary of State concluded that in all other respects the Cape Ordinance was entitled to the Crown's approval.

The reaction of the Colonial government was contained in an undated and incomplete letter in the Cape Archives. Bell informed D'Urban, presumably on the frontier:

Your Excellency will observe the condition on which the Apprentice Ordinance has been sanctioned. This condition has been imposed in utter ignorance of our colonial laws and practice, and must be successfully resisted or the whole Colony will flare up. I should think its withdrawal would not be of difficult attainment, for they seem to be in high good humour with this Colony in all matters concerning slavery, government, Legislative Council...<sup>71</sup>

There was no other reference concerning this 'condition' in Bell's correspondence to D'Urban, and it is quite possible that, heavily involved with the state of the eastern frontier, the renunciation of Queen Adelaide Province and the growing bitterness with Stockenström,

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<sup>68</sup>Ordinance 1/1835, Cap. X.

<sup>69</sup>See Theal, R.C.C., Vol. V, pp.263-5, for the text of the Articles of Capitulation, 9 January, 1806.

<sup>70</sup>C.A., G.H. 1/105, p.57, Grant to D'Urban, 30 April, 1835.

<sup>71</sup>C.A., A519, Vol. 2, pp.227-8, Bell to D'Urban, undated and incomplete. Bell's emphasis.

D'Urban followed Bell's advice. There is no record in the minutes of the Legislative Council of his introduction of any explanatory ordinance in terms of Grant's despatch of 30 April, 1835. Moreover, the Cape of Good Hope Blue Books for the years 1835-8 inclusive do not list any such explanatory ordinance in their respective schedules of all the laws, proclamations and Orders-in-Council promulgated in the Cape Colony. An Order-in-Council published in the Government Gazette on 4 March, 1836, gave the Crown's approval of "the provision made (by Ordinance No.1 of 1835) for giving effect to the Slavery Abolition Act".<sup>72</sup> No mention was made of any amendment, so it is probable that the offending clause remained in the Cape Ordinance, for as Bell pointed out, it was in accordance with the Colony's code of Roman Dutch law.

The Crown was clearly dissatisfied with the operation of apprenticeship in the former slave owning colonies. Accordingly, it promulgated 'An Act to amend the Act for the Abolition of Slavery in the British Colonies'.<sup>73</sup> At the Cape this Act was to take effect from 1 September, 1838, and empowered the Governor to legislate with the advice of his Council for the better condition and treatment of apprentices. The apprenticeship interlude had not been a great success; at the Cape the Apprenticed Labourers Ordinance ceased to be in operation after 1 December, 1838, the date of final emancipation.

The general impression of slave emancipation is that after the emotional build-up to it, both in Parliament and at the Cape, the actual system of apprenticeship and the results of its imperfect application, were relegated backstage in the inevitable anti-climax of success. At the Cape an already over-stretched bureaucracy was given an additional burden, and the war in the east soon claimed the Colonial government's attention and energy, while in Parliament the humanitarians under Buxton's lead embarked upon a survey of the injustices perpetrated against the aboriginal inhabitants in colonies of British settlement. As a result, the eastern frontier and the Colony's relations with the Xhosa tribes along the frontier and beyond claimed their attention and that

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<sup>72</sup>C.G.H.B.B. for 1836, p.63, Schedule of Legislation.

<sup>73</sup>I and II Vict, Cap. XIX, 11 April, 1838, published at the Cape in the G.G., 17 August, 1838.

of the Colonial Office to an increasing degree for the remainder of D'Urban's governorship.

The impact upon the Colonial government of the system of apprenticeship and its appendages of Special Magistrates and police establishments together with its financial burdens on the Colonial Treasury were significantly reflected in Bell's correspondence during 1835 with D'Urban on the frontier directing military operations. On 13 February, 1835, for example, Bell wrote: "Buildings cannot be got at Swellendam for hire for the Special Police Establishment...This is but a commencement of the difficulty and expense in which Government will be involved by the apprenticeship system."<sup>74</sup> His news of 20 March, 1835, was more encouraging: "I have good hope of getting the Police Settlements both at Tygerberg and Swellendam effected without purchase. The others are getting fast into shape and the Act is in full operation - working apparently with very little friction!"<sup>75</sup> There was no doubt that the Colonial government was determined to try and make the apprenticeship system work within the limits dictated by finance, distance and the lack of qualified Special Magistrates.

This was clearly indicated when Bell informed D'Urban on 27 February, 1835:

I have by dint of circulars, etc., got the Specials pretty well set up and going and all acting on the same system. They seem to do their work well and determinedly. As it is a great affair to back their authority at the start, I make free to deal with all applications and appeals...from masters who like beating their apprentices, but not paying the fines. They will get tired of this game sooner than I. <sup>76</sup>

When the Special Magistrate at Uitenhage failed to perform his duty efficiently, Bell told D'Urban:

I have taken it upon me to give Capt. Sherwin at Uitenhage a deuce of a rowing. The poor creature has allowed himself to be intimidated by some obscure hints of

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<sup>74</sup>C.A., A519, Vol. I, pp.88-9, Bell to D'Urban, 13 February, 1835.

<sup>75</sup>Ibid., pp.119-21, Bell to D'Urban, 20 March, 1835. Bell's emphasis.

<sup>76</sup>Ibid., pp.103-5, Bell to D'Urban, 27 January, 1835. Bell's emphasis.

personal danger in the execution of his duty, and had not spirit nor sense enough either to brave them or ferret out their authors. I have told him that if he does not proceed with his work, he will prove his unfitness for the office to which His Majesty has appointed him. He will probably throw himself upon Your Excellency for protection against me!<sup>77</sup>

Apprenticeship had been devised to secure a sufficiency of labour to the master during the transitional stage of emancipation, and also to prepare the apprentice for the change to freeman. While Ordinance 1 of 1835 secured the former, the latter was neglected at the Cape and apprentices forfeited the "novel experience of working as wage earners".<sup>78</sup> A system of unpaid domestic labour enforced by a stern code in reality masked a system of semi-servitude. Both British and Colonial governments thereby hoped to avoid the perils of immediate emancipation. The unrest and agitation caused by the proposed Vagrancy Ordinance of 1834 indicated how close those perils appeared to be in the months before the formal abolition of slavery on 1 December, 1834.

At the Cape the passing of a Vagrancy Ordinance assumed an important aspect in the months prior to emancipation. The colonists saw in it the means of securing an adequate supply of labour, particularly as the assumed upheavals which would accompany emancipation coincided with the harvest season in December. Lieut.-Col. Wade,<sup>79</sup> in his capacity as acting Governor, had gone so far as to promise that before the expiry of apprenticeship, measures for the effective suppression of vagrancy would be taken in the interests of "procuring a sufficiency of labourers to cultivate the farms", and to prevent "the losses to which property may be exposed from the depredations of the idle and dissolute..."<sup>80</sup>

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<sup>77</sup>C.A., A519, Vol. 2, pp.88-9, Bell to D'Urban, 19 June, 1835. Bell's emphasis.

<sup>78</sup>Edwards, Towards Emancipation, p.178.

<sup>79</sup>Lieut.-Col. Thomas Francis Wade (1784-1846), saw service in the Peninsular War on Cole's staff, and accompanied him to Mauritius in 1823 and the Cape in 1828 as military secretary. He acted as Cape Governor between Cole's departure in August, 1833, and D'Urban's arrival in January, 1834, and later gave evidence before the Aborigines Committee in 1836. See D.S.A.B., Vol. II, p.825.

<sup>80</sup>P.P., 1837, VII, (425), p.98, Circular dated 7 January, 1834, quoted by Wade before the Aborigines Committee, 21 April, 1837.

It was to allay the spectre of a labour shortage and to appease the colonial fear that bands of freed slaves would wander the Colony as the Khoikhoi had done and continued to do in the wake of Ordinance 50 of July, 1828,<sup>81</sup> that D'Urban introduced into the Executive Council of 29 March, 1834, and into the Legislative Council on 7 May an ordinance for the better suppression of vagrancy within the colony. He soon realised he had opened Pandora's box. The idea of a Vagrancy Ordinance appealed as much to the colonists as the Rev. John Philip and his supporters found it abhorrent, and both sides set to with a will to arouse public opinion and in general they created a clamour which was finally heard in Whitehall.

The trouble to come was foreshadowed at the Executive Council meeting of 29 March. The Attorney-General, requested by D'Urban to draft a Vagrancy Ordinance, declared that in the circumstances of the Colony with its lack of properly qualified persons to administer the law impartially as Justices of the Peace, the shortage of secure gaols, and the absence of funds to defray the transport and maintenance of convicted vagrants, it was almost impossible to frame an ordinance "which would not be attended with more evil than good." As Dr Edwards noted: "The position was difficult enough in the west, but it was infinitely worse in the east where the vast distances had already reduced to a farce the existing machinery of local government."<sup>82</sup> This was of greater significance after the revised and retrenched system was introduced into the colonial service with effect from July, 1834. Nevertheless, a draft Vagrancy Ordinance was prepared and passed its first reading in the Legislative Council on 7 May, and was printed for circulation throughout the Colony.<sup>83</sup>

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<sup>81</sup>Edwards, Towards Emancipation, p.168. "There was no doubt that vagrancy had increased throughout the colony..." See also the reports from the Civil Commissioners on Philip's memorial to the Legislative Council received on 3 June, 1834, pp.151-166, P.P., 1837, VII, (425). In Sir Lowry Cole, pp.169-70, Hunt has argued that although Cole believed legislation was probably necessary to prevent vagrancy, he foresaw its disallowance, which was the fate of the 1834 Ordinance.

<sup>82</sup>Edwards, *op.cit.*, p.168.

<sup>83</sup>C.L., G.G., 9 May, 1834.

Missionary opinion was incensed, particularly at the provision which allowed Field Cornets to arrest those suspected of having no honest means of support, a measure which it was believed had been framed with the intention of driving all Khoikhoi back into the service of the farmers.<sup>84</sup> Philip thundered: "Will the English nation, which has engaged to pay £20 million for the redemption of the slaves of our colonies, suffer itself to be cheated by allowing the iron chains of the Hottentot to be substituted for the leathern thongs of the slaves?"<sup>85</sup>

The steps in drafting and presenting the Vagrancy Ordinance were necessarily slow and laborious. After passing its first reading on 7 May the bill was published and circulated through the Colony for public inspection in accordance with the 28th article of D'Urban's Instructions which directed that "due notice...be given to all Parties concerned of the provisions [of any ordinance intended to affect or benefit private persons] with ample opportunity of opposing the same, and that a full and impartial examination may take place of the grounds upon which the same may be proposed or resisted."<sup>86</sup>

Petitions were first received on 3 June - one from Philip condemning the ordinance, and others from farmers in the Koeberg and Tygerberg districts supporting it. More petitions the following day led to the postponement of the second reading, and D'Urban requested that copies of Philip's memorial be circulated to all Civil Commissioners for their comment. Further petitions were received on 28 June, 29 and 31 July, and on that latter date, the committee stage for the second reading was

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<sup>84</sup>See, for example, P.P., 1837, VII, (425), pp.729-31, the "Memorial of John Philip, D.D., Superintendent of the London Missionary Society's Missions in South Africa." One of the reasons Philip opposed the Vagrancy Ordinance was quite clearly because it would be enforced by Field-Commandants, Field-Cornets and provisional Field-Cornets. He declared that "in present circumstances this class of men in the remote districts feel little or nothing of the control of government, which is the occasion of great hardships and suffering to those under them, and even threatens with destruction the good and peaceable natives in their neighbourhood who decline entering into their service or the service of their friends."

<sup>85</sup>P.P., 1836, VII, (538), p.728, letter to the editor of a Cape Town newspaper, 21 May, 1834.

<sup>86</sup>C.A., G.H. 1/96, pp.37-8, Instructions.

again postponed until an abstract of the completed Civil Commissioners' reports was obtained together with a statement from the Judges of the existing laws which related to vagrancy.

On 11 August these statements were received together with a second memorial from Philip. After detailing the legislation which in any way dealt with vagrancy, the Judges of the Cape Supreme Court - Wylde, Menzies and Kekevich - concluded significantly:

We are of opinion, that no law, framed for the suppression of vagrancy, can be carried into effectual operation in respect of Hottentots or other free persons of colour, lawfully residing in this colony, so long as the second section of the ordinance no.50 stands unrepealed; in so far as it enacts, that no Hottentot or other free person of colour, lawfully residing in this colony, shall be subject to any hinderance, molestation or imprisonment of any kind whatsoever, under the pretence that such person has been guilty of vagrancy, unless after trial in due course of law. <sup>87</sup>

At this meeting of the Council the motion was made and carried that the Vagrancy Ordinance be referred to the Judges of the Supreme Court to be amended in accordance with their report.

Further petitions were received at the Legislative Council meeting of 20 August, together with a reply from the Judges in which they declared it their considered opinion that drafting an amended ordinance to be beyond their legal competence. However, Judge Menzies, in an unofficial capacity, transmitted a draft of a revised ordinance for the consideration of the Council, and it was introduced by Wade on 23 August. Menzies had made it clear that no Vagrancy Ordinance could have effectual operation until the second clause of Ordinance 50 had been altered, and that this could only be done by the King in Council. "I do not submit the ordinance...as one which, if passed by your Excellency and the Legislative Council, could at once be put into operation, but merely as one which, if so passed, may be transmitted

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<sup>87</sup>P.P., 1837, VII, (425), p.167, 'Opinion upon Questions referred by his Excellency the Governor to the Judges upon the Bill, now before the Legislative Council for the Suppression of Vagrancy'. Philip also realised the importance of the second section of Ordinance 50. See, for example, the letter Philip presented before the Aborigines Committee on 11 July, 1836. P.P., 1836, VII, (538), pp.757-63.

for the confirmation of His Majesty in Council."<sup>88</sup>

On 23 August the Legislative Council set to work to shape the Vagrancy Ordinance, with D'Urban allowing the freest debate, and the Attorney-General and acting Colonial Secretary<sup>89</sup> generally in opposition to the majority at any division. Consideration, debate and amendment of the ordinance absorbed the Council's energies at the meetings on 25 and 30 August when it was passed to the Judges. The Judges were of opinion that as the ordinance stood there was no impediment in its execution by the colonial tribunals, but reiterated that in so far as it altered, repealed or amended Ordinance 50 of 17 July, 1828, it was void, of no effect and unenforceable until it had been "first expressly notified, confirmed and allowed by His Majesty with the advice of his Privy Council."<sup>90</sup>

Despite this legal warning the Vagrancy Ordinance was passed with a majority of three<sup>91</sup> after its third reading on 8 September, 1834. D'Urban voted neither for nor against the ordinance, but had his disapproval of the measure minuted. He declared that he dissented from the majority

1st, because there are several clauses in it which appear to me so fraught with danger to the liberties of His Majesty's colonial subjects, and to one numerous class of them more especially, that I cannot but regard them with apprehension and alarm; and while I feel sure that they will be so regarded at home, and will never be allowed by the King in Council, I fear that having enacted them will essentially prejudice the colony in the opinion, not only of His Majesty's Government, but of the English nation.<sup>92</sup>

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<sup>88</sup>P.P., 1837, VII, (425), pp.100-1, Menzies to D'Urban, 19 August, 1834.

<sup>89</sup>K.B. Hamilton, Clerk of the Legislative Council, acted in this capacity during Bell's leave of absence from August, 1833 until September, 1834. See C.G.H. B.B. for 1834, p.97, Civil Establishment.

<sup>90</sup>C.A., Leg. Co., I, 8 September, 1834.

<sup>91</sup>C.A., Leg. Co., I, 8 September, 1834. For: Pillans, van Breda, Cloete, Auditor General, Treasurer General, Officer Second in Command; Against: Ebden, Attorney-General, and the acting Colonial Secretary.

<sup>92</sup>P.P., 1837, VII, (425), p.102, "Reasons of his Excellency the Governor's dissent from the majority of the legislative council upon the third reading of the 'amended bill for the suppression of vagrancy'." 8 September, 1834.

D'Urban, in 1834, was thus clearly aware of the potential disfavour that the Cape's race relations could arouse in Britain. Over the question of vagrancy, as with that of the frontier, his natural inclination was to move cautiously and deliberately. In place of a specific vagrancy ordinance D'Urban accordingly favoured the application of existing law. This he believed would be sufficient

if the judges, as they doubtless will, and especially in the circuit courts, avail themselves of every fitting occasion to expound from the bench the existing laws, for the information of the public, and if the public prosecutor, as he also doubtless will, give opportunities for this, by combining in his indictments, whenever the case justly admit of it, a specific charge of 'vagrancy', with the other points of the charge. <sup>93</sup>

At the next meeting of the Council on 13 September Ebdon and Oliphant, the Attorney-General, minuted their reasons for voting against the Ordinance. They objected to the Ordinance principally "because no adequate means [had] been used by the Government of this colony to civilize the aboriginal inhabitants and enable them to earn their subsistence by instructing them in any trade or pursuit whereby they might obtain their livelihood."<sup>94</sup> On 22 October D'Urban informed the Legislative Council that as the Vagrancy Ordinance repealed section 2 of Ordinance 50 expressly confirmed by the King in Council, he was duty bound to withhold assent under the seventeenth article<sup>95</sup> of his Instructions, and until it had been transmitted to the Secretary of State to be laid before the King and a reply received.

D'Urban had introduced the draft Vagrancy Ordinance in the Executive Council on 29 March, 1834, and an amended version of it was passed by the Legislative Council on 8 September. In the interim period of 5½ months the Colony had been plunged into a state of high tension with colonial opinion generally in favour of the ordinance, and the

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<sup>93</sup>Ibid.

<sup>94</sup>C.A., Leg. Co., I, 13 September, 1834.

<sup>95</sup>The seventeenth article instructed D'Urban to assent to no ordinance which was repugnant or inconsistent with his commission, Instructions, an Act of Parliament, or an Order of the King in Council. C.A., G.H. 1/96, pp.28-9, Instructions.

missionaries, their supporters together with the Khoikhoi and other free persons of colour at the mission stations and at the Kat River Settlement in opposition because they feared the loss of freedom of movement and equality before the law gained by Ordinance 50. The Crown refused to sanction the Vagrancy Ordinance, yet despite its final failure emancipation was accepted at the Cape with no hint of rebellion on the part of the colonists.

The crisis engendered by the Vagrancy Ordinance also demonstrated the soundness of the limited system of constitutional government which D'Urban had introduced in early 1834. The draft ordinance had been introduced into the Legislative Council, petitions received and their grounds for objection investigated by recourse to the Civil Commissioners and their knowledge of local matters in the districts. The Judges had been consulted on vagrancy legislation already in force, and for their professional opinion on the legality of the measure. The Bill had been forged in the Legislative Council. D'Urban informed Spring Rice on 27 October, 1834:

In due obedience of the eleventh and fourteenth clauses<sup>96</sup> of the Royal Instructions I had not, in any way, impeded the fullest and freest discussion of the subject, and the regular effect of the majority of votes farther than expressing my disapproval of the Bill thus carried through the Council, many of the clauses of which... appeared to me very objectionable. The majority, however, had been too great for my vote to affect it throughout its course, with the exception of the amendment in favor [sic] of the aborigines, to the 19th clause, which by throwing it into the scale, I was enabled to carry.<sup>97</sup>

Fryer criticised the Legislative Council of D'Urban's governorship as "'the rubber stamp' of the Executive Council",<sup>98</sup> and certainly at

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<sup>96</sup>The eleventh and fourteenth articles of D'Urban's Instructions respectively laid down the voting procedure to be adopted in the Legislative Council and ordered D'Urban to allow the freest debate in the Council, and a negative voice in any of its decisions. Nevertheless, if the majority vote on any ordinance prevailed, all D'Urban could do was withhold his assent to any measure, pending the pleasure of the King. G.H. 1/96, pp.21-2; pp.25-6, Instructions.

<sup>97</sup>C.A., A519, Vol. 20, pp.66-72, D'Urban to Spring Rice, 27 October, 1834.

<sup>98</sup>A.K. Fryer, 'The Government of the Cape of Good Hope, 1825-54: the Age of Imperial Reform', p.8, A.Y.B., Vol. I, 1964.

the time of the promulgation of the Colony's new constitution the Graham's Town Journal declared its dissatisfaction with the composition of the Legislative Council. Godlonton wrote:

It has been very justly observed 'that if there be no Legislative body the Government is the despotism of an individual. If there be a Legislative body wholly appointed by an individual, it is still despotic, though circuitously.' Another objectionable feature is the opening which is left for the Governor to appoint a majority of official members. <sup>99</sup>

While Godlonton correctly emphasised the Council's limited authority, its performance during D'Urban's governorship gave little weight to the criticism of it as either the Governor's mouthpiece or the Executive Council's 'rubber stamp'. The clearest proof of this is to be found in the passage of the Vagrancy Ordinance. The last division for the third reading of that bill before it was passed for the Governor's consideration and the Crown's perusal, indicated a depth of personal belief unalloyed by considerations of the maintenance of an official front or fears of the Governor's residual authority. Van Breda, P. Brink, the Auditor-General, J. Brink, the Treasurer-General, Lieut.-Col. Wade, the Senior Military Officer, Cloete and Pillans voted in favour of the motion. Ebdon, Oliphant, the Attorney-General, and Hamilton, the acting Colonial Secretary, opposed the motion. The bill was therefore carried, and submitted in the first instance to D'Urban, who refused his assent, and the Crown, which disallowed it.

In the minutes of the Legislative Council meeting of 13 September, 1834, Oliphant and Ebdon recorded their dissent. This written disapproval reflected a fine balance between considerations of an humanitarian nature with those of a more practical nature, such as the provision for adequate prison accommodation and a sufficient number of "fit magistrates".<sup>100</sup> In effect the Legislative Council went far to impose a sense of responsibility and a taste of the difficulties of government, both essential prerequisites before sophisticated elective institutions could be granted. Progress was necessarily slow and had to be carefully nurtured.

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<sup>99</sup>C.L., G.T.J., 30 January, 1834. Editor's emphasis.

<sup>100</sup>C.A., Leg. Co., I, 13 September, 1834.

The whole incident of the Vagrancy Ordinance also demonstrated the rift between D'Urban and Wade, the military officer next in seniority to D'Urban, and his successor should the Governor be incapacitated. D'Urban wrote an annoyed, semi-official letter to Hay:

You will see the time which has been wasted, and the useless troubled and prolonged excitement, which have been occasioned by the obstinate prosecution of the measure of a Vagrant Law. Nor will it escape you that the main instrument to urge it on, ultimately, in direct opposition to the wishes of the Head of Government was the Senior Official member of the Council (being so ex officio as second in command of the troops)... 101

Seven weeks later, but almost a month after the event, D'Urban sent a coldly furious letter to Hay, detailing a gross indiscretion on Wade's part. On 29 November, 1834, Wade had requested the inclusion on the minutes of the Legislative Council of his 'Explanatory statement with reference to the memorandum of his Excellency the Governor entered on the minutes of the Council on 22 October, 1834.'<sup>102</sup> This statement was basically a defence of his persistency in pressing the Vagrancy Ordinance. Wade asserted that his views in this matter had not been taken in opposition to the views of the Governor, but in the interests of the Colony. D'Urban believed otherwise, and declared to Hay that he had been unaware of Wade's intention in introducing the statement

which must have been to place the Governor of the Colony in the position of explaining or justifying his official acts at the bar of the Legislative Council. But as this was obvious in the course of 'the statement', there could be no doubt upon every ground of sound government that it was expedient for me to take care that no such Precedent should be forced upon His Majesty's representative, and I therefore proceeded to the business of the day which this irrelevant proceeding had most inconveniently interrupted, and at the next sitting of the Council entered upon the record [a] precautionary Note of Reservation...<sup>103</sup>

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<sup>101</sup>C.A., A519, Vol. 20, pp.59-61, D'Urban to Hay, 10 November, 1834. D'Urban's emphasis. For an analysis of Hay's habit of writing private letters to officials in the colonial civil service see D.M. Young, The Colonial Office..., pp.86-7.

<sup>102</sup>For the full text of Wade's statement, and his explanation of his conduct see P.P., 1837, VII, (425), pp.91-107.

<sup>103</sup>C.A., A519, Vol. 20, pp.77-81, D'Urban to Hay, 28 December, 1834. D'Urban's Note of Reservation stated that Wade had contravened

D'Urban deplored the fact that Wade had failed to support him in a matter of such vital consequence, and assigned it to his having been "for a long time...a powerful influence upon the measures of my Predecessor to whose family he had been long attached in various capacities, and having also afterwards administered the Government himself." As a result Wade had "ill-endured the loss of consequence which may have resulted from the cessation of that influence..." D'Urban concluded:

I shall consider it an advantage to the due and efficient administration of this Government if Col. Wade, who is just gone to Europe on an 18 months leave of absence from his military duties for the recovery of his health, may afterwards have employment elsewhere, or at any rate not return hither as a member of the Councils.<sup>104</sup>

D'Urban was also critical of the Attorney-General, Oliphant. In the same semi-official letter to Hay dated 10 November, 1834, he asserted that Oliphant had twice prepared drafts of ordinances

which upon reference to the Judges were found to be defective in their legal forms and properties, and consequently could not have been carried into effect by the Colonial Tribunals. This could only have originated in an ignorance of or an inadvertance to the existing Laws of the Colony.<sup>105</sup>

D'Urban understandably considered this

very embarrassing since it is this officer of the Crown who in the Instructions to the Governor and indeed by the nature of his office, is to draw up 'all Drafts of Ordinances and other Legal Documents'...I cannot be diffident either of his Legal ability or of his attention...By the instructions sent out in 1827 to the Governor when the Attorney-General was appointed, he was expressly permitted to enter into Private Practice,

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the fifth article of the Standing Rules and Orders of the Council to the effect that all business of the Council was to be taken in the order it appeared in the Order Book, "unless by permission of the President on good reasons being shewn for such deviation." (See Ex. Co., I, 26 March, 1834, for the Standing Rules governing the conduct of the Legislative Council.)

<sup>104</sup>C.A., A519, Vol. 20, pp.77-81, D'Urban to Hay, 28 December, 1834. D'Urban's emphasis.

<sup>105</sup>C.A., A519, Vol. 20, pp.63-6, D'Urban to Hay, 10 November, 1834. D'Urban's emphasis.

and this may and probably does, absorb his energies and divert him from devoting himself diligently to his public duties.

D'Urban concluded his letter with the illuminating sentence: "I think it right (fulfilling indeed the understanding in which we parted) to make you aware confidentially of all such matters, that you may not be unprepared for my future representations upon them, if it should ever become necessary for me (which I hope it may not) to make any thereon."<sup>106</sup>

Strictly speaking D'Urban should have addressed his remarks to the Secretary of State. Within a year of this correspondence between D'Urban and Hay, a Colonial Office circular despatch, dated 27 October, 1835, declared there were "very serious if not conclusive objections to the habit of Governors addressing themselves to any person whatever on the public business of their Governments excepting to the Secretary of State."<sup>107</sup> As a result Governors were appraised that the Secretary of State alone was to be the repository of all official confidences. It is clear that D'Urban and Hay had forged an unofficial link before the Governor had left London for the Cape and had agreed to inform each other of things of interest or value at their respective locations. In the despatch of 10 November D'Urban had referred to "the understanding in which we parted". As Young indicated,<sup>108</sup> there was no dark conspiratorial purpose in this; it was more a case of men of similar political and social persuasions maintaining contact. But on D'Urban's part it seems to indicate a circuitous, almost covert, approach to problems, particularly those which involved the Colonial Office. D'Urban used this private approach several times during his governorship at the Cape, ultimately to his discredit.

In 1834 D'Urban's disgrace still lay in the future. The emotive reaction to a vagrant law, which was embodied in the spate of memorials and the many newspaper articles which appeared in Cape Town and Grahams-town debating the merits and demerits of a Vagrancy Ordinance, probably

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<sup>106</sup>Ibid. (D'Urban's emphasis.)

<sup>107</sup>Quoted in Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', p.163.

<sup>108</sup>Young, Colonial Office..., pp.86-7.

took D'Urban by surprise. He had introduced the first draft ordinance into both Executive and Legislative Councils, but within five months he had become convinced of its inadvisability. The tensions the ordinance created made D'Urban even more wary of leaving Cape Town before emancipation had been introduced and its enabling ordinance passed. As events soon demonstrated the problem of the frontier was more volatile than slave emancipation and in need of the Governor's personal and immediate attention. But it is clear that in 1834 D'Urban assigned to the frontier a lower priority than slave emancipation for reasons he believed to be sound.

The problem of the frontier was one which had perplexed a succession of governors, Dutch and British, and all had displayed a basic lack of understanding for the fundamental dynamics of a tribal society.

## CHAPTER 5

THE FRONTIER : D'URBAN'S EARLY APPROACH TO THE PROBLEM

To put D'Urban's settlement into context it is necessary to consider briefly the societies on either side of the frontier, and the attempts of successive Colonial governments to achieve stability in the area. It is also important to note that before D'Urban's appointment, the Colonial Office exercised little direct control over the frontier policies of individual governors.

From the early days of the Dutch East India Company's presence at the Cape, white frontiersmen had pushed beyond the Cape peninsula, and had evolved a pastoral existence which centred primarily upon their herds of cattle, and upon a sufficiency of water and land to maintain those herds. The routes of migration had largely by-passed the natural and semi-arid barrier of the Great Karoo, and these trekboere had reached the scattered waterholes of the north, or had followed the coastal belt between the Indian Ocean and the escarpment of South Africa's inland plateau.<sup>1</sup> In the 1770s beyond Algoa Bay and Graaff Reinet the semi-nomadic trekboere,<sup>2</sup> who gloried in their isolation and their strongly paternalistic and retributive vision of God, found good grazing and water on the westerly limit of the annual fifteen inch rainfall line.

But in this area of the Fish River they also came into violent contact with another semi-nomadic and pastoral people whose lifestyle similarly centred on their cattle herds. These dark-skinned people have been known variously as the Bantu,<sup>3</sup> the Cape Nguni<sup>4</sup> and to the

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<sup>1</sup>See Maps 2 and 7.

<sup>2</sup>Walker, *The Great Trek*, pp.26-58 gives an interesting and sympathetic description of the lifestyle of the Cape frontiersmen.

<sup>3</sup>The word 'Bantu' means people. See Soga, *The South-Eastern Bantu*, pp. 1-11, p.60. Its use in connection with the policy of apartheid has prejudiced its use.

<sup>4</sup>The term 'Nguni' is used to denote the tribal societies with a common linguistic link in southern Africa, and is at present devoid of political connotations. See O.H.S.A., Vol. I, pp.75-130.

colonists of the day as Kaffirs.<sup>5</sup> The clans along the eastern frontier were mainly part of the larger whole known as the Xhosa tribe, and included the Ngqika, Ndlambe, Dange, Mbalu and Gqunukhwebe chiefdoms in its immediate vicinity and the senior chiefdom, the Gcaleka further east near the Kei River.

Professor Hammond-Tooke has succinctly described the dynamics of Nguni political units as instability, segmentation and fission, with one group splitting away to form an independent chiefdom of "co-ordinate status".<sup>6</sup> A common cause for the break-away was dissatisfaction with the chief;<sup>7</sup> it was also considered the due of the heir of the Right-Hand House<sup>8</sup> of a chief to establish a chiefdom independent from that of his father. The resulting chiefdoms were completely free of interference from the head of the senior chiefdom in their internal affairs; the authority of this Paramount was more social and ritual than political.<sup>9</sup>

Towards the end of the Seventeenth Century the Xhosa tribe underwent a period of "accelerated fission" and in six generations the original groups had split into ten separate chiefdoms. Hammond-Tooke believed

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<sup>5</sup>'Kaffir' is derived from the Arabic Kāfir which in its original form applied to anyone who did not believe or subscribe to the Mohammedan religion. It was a term frontiersmen and frontier authorities at the Cape used to distinguish Xhosa clans from those of other tribes. Today it has a specific and derogatory meaning. See D.S.A.E., p.106.

<sup>6</sup>W.D. Hammond-Tooke, 'Segmentation and Fission in Cape Nguni Political Units', Africa, Vol. XXXV, No. 2, April 1965, p.149.

<sup>7</sup>Ibid., p.152.

<sup>8</sup>The chief's heir derived from his Great Wife whom he usually married late in life. Although the right-hand wife may have been married earlier and was ranked second to the Great Wife, there was little chance of her sons succeeding to the original chiefdom. Ibid., p.154. J.B. Peires in his article, 'The Rise of the 'Right-Hand House' in the History and Historiography of the Xhosa', has disagreed with Hammond-Tooke's analysis of the Right-Hand House, largely in matters of detail. History in Africa, Vol. II, 1975, pp.113-125. Also see Peires, 'A History of the Xhosa, c1700-1835', pp.64-72.

<sup>9</sup>Hammond-Tooke, op.cit., p.156. See also Soga, op.cit., pp.189-90.

that one of the reasons for this process was their rapid advance southwards into new and lightly inhabited areas.<sup>10</sup> Peires has also indicated the ability of the Xhosa tribal structure to absorb other groups within itself - like those tribes which had been broken by the Mfecane and had fled disorganised and possessionless - and who after a "period of servitude and social inferiority in order to lose their previous identity" became accepted as true Xhosa.<sup>11</sup> In historical terms the Mfengu are the most commonly identified of these incorporated peoples, primarily because of the role D'Urban assigned to them in his May settlement, and the consequent and lasting antipathy the Xhosa felt for them thereafter. D'Urban's proclaimed 'emancipation' of the Mfengu underlined the basic lack of understanding that successive colonial governors and their subordinates had for tribal society.

Peires has made it clear that the Mfengu were not slaves in the accepted sense of the word, but were required to pass through a period of social inferiority before attaining equal status. Those refugee Mfengu who arrived after fleeing the ravages of the Mfecane<sup>12</sup> with cattle and acknowledged chiefs were given land. The indigent Mfengu were sent out amongst Hintsa's people as herdsmen in the customary manner of 'busa' clients. Under this system, poor men attached themselves to the chief or wealthy commoners in the hope that they could accumulate sufficient cattle to establish themselves.<sup>13</sup> But it seems clear that the Mfengu resented the necessity of giving tribute and bearing the exactions of their new masters,<sup>14</sup> and consequently sought the salvation of the Wesleyan missionary Ayliff at Butterworth. The influence Ayliff came to possess over the Mfengu, and the impact of the Wesleyan

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<sup>10</sup>Hammond-Tooke, *op.cit.*, p.159.

<sup>11</sup>Peires, *op.cit.*, pp.197-200.

<sup>12</sup>See W.F. Lye, 'The Difaqane: the Mfecane in the Southern Sotho Area, 1822-24', *J.A.H.*, Vol. VIII, number 1 (1967), pp.107-31.

<sup>13</sup>Peires, *op.cit.*, p.76.

<sup>14</sup>*Ibid.*, p.200.

missionaries on D'Urban<sup>15</sup> while he was on the frontier later opened the way for their 'emancipation'.

The closing of the southward line to further tribal expansion by white settlement along the Fish River and the rearward pressure from present-day Natal as a result of the Mfecane led the Xhosa, Thembu and Mpondo people to crowd upon insufficient land. This was significant because it prevented the resolution of political differences and pressures by the traditional process of one group hiving-off to form a separate chiefdom. A shortage of land and a lack of understanding on the part of the Colonial government were important factors in the war of 1834-5. Also, the existence of two cultures dependent on cattle for wealth, prestige and survival naturally led to cattle raiding and reprisals which exacerbated relations between the Colony and the Xhosa and made a negotiated settlement of differences difficult.

In 1780 the entire length of the Fish River had been proclaimed the Colony's eastern frontier, but it was only with the arrival of the British that effective steps were taken to make it so. In 1811-12 Cradock had secured the frontier by a simple and systematic military plan which drove out the Xhosa from the land between the Sundays and Fish Rivers - an area known as the Zuurveld - built a double-line of block houses, and maintained a force on the frontier in an attempt to prevent cattle raids into the Colony.<sup>16</sup>

In this the military were assisted by a system which mobilised the local farmers in loosely organised and mounted militia units known as commandos. This system dated back to the third quarter of the Seventeenth Century when the Dutch East India Company had recognized free burghers at the Cape and had expected the reciprocal arrangement of being able to call upon their services in the defence of the Colony.<sup>17</sup>

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<sup>15</sup>See, for example, P.P., 1836, XXXIX, (279), p.20. D'Urban to Aberdeen, 19 June, 1835, in which the Governor cited the opinions of the Wesleyans Shrewsbury and Boyce and declared their long residency in the trans-Keiskamma territory had given them a good insight into the Xhosa character. Also P.P., 1837, XLII, (503), p.61, D'Urban to Glenelg, 9 June, 1836, in which D'Urban applauded the efficiency of the Wesleyans in the peace negotiation of September, 1835, and defended Shrewsbury and Boyce against Glenelg's criticism of them in his despatch of 26 December, 1835.

<sup>16</sup>Walker, History of Southern Africa (1972 impression), p.153.

<sup>17</sup>Ibid., pp.68-70.

The commando system came under heavy criticism in Britain as a result of Sir Lowry Cole's Ordinance number 99 of 1833 and evidence presented before the Aborigines Committee which indicated that unwarranted excesses were sometimes committed by commandos.<sup>18</sup>

Before the Aborigines Committee several witnesses attempted to draw a distinction between military patrols carrying out normal tasks and commandos composed of civilian and military forces organised and called out for a specific task.<sup>19</sup> Andries Stockenstrom undoubtedly believed commandos, properly sanctioned by the government, were an unavoidable necessity to punish marauders and to protect the colonists from depredations. But he condemned the system of reprisal which allowed every small patrol in search of stolen cattle to compensate itself at the first kraal it came across. "The one [commando] is necessary and legitimate protection, granted by the government to the people under its protection; the other is making every man judge and avenger in his own cause..."<sup>20</sup>

In a letter to Buxton in May, 1834, even Philip sought to distinguish between patrols and commandos. Macmillan paraphrased its contents:

The patrol is purely military with possibly a farmer guide, the commando is primarily a much larger mixed force of soldiers and burghers bent usually on reprisals; the term commando, however, is also used for small expeditions, seemingly well known and common, where farmers themselves

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<sup>18</sup>See for example the evidence of Andries Stockenstrom before the Aborigines Committee on 4 March, 1836, where he advocated the employment of a "proper trustworthy officer" in all cases in which cattle were retaken to avoid the use of provisional Field Cornets, men whose integrity he doubted. P.P. 1836, VII, (538), Q 2371-2381, pp.248-50.

<sup>19</sup>P.P., 1836, VII, (538), pp.26; 134. Evidence of T. Philipps and W. Dundas.

<sup>20</sup>P.P., 1836, VII, (538), Q 2147-49, pp.233-4. Stockenstrom before the Committee, 1 March, 1836. For a detailed analysis of Stockenstrom's views on the reprisal system see J.M. Urie, 'A critical study of the evidence of Andries Stockenstrom before the Aborigines Committee in 1835 viewed in the light of his statements and policies before 1835', pp.120-69.

acted together, without the formality of getting military help.<sup>21</sup>

The difficulty in attempting to define these terms arose from the loose way in which 'commando', 'patrol', 'commando system' and 'reprisal system' were used at the time. The situation was further complicated by the fact that there were no regular military forces stationed on the northern frontier and all operations against banditti or marauding San<sup>22</sup> were necessarily civilian affairs controlled by Field Cornets or Field Commandants who were themselves civilians appointed, but not paid, by the Colonial government. To the Xhosa the distinction meant little; as far as they were concerned raids in search of stolen cattle were random and often unfairly executed.

The system of reprisal was open to numerous abuses. First established by Cradock, it was later dictated to Ngqika by Lord Charles Somerset in April, 1817, at the Kat River Conference<sup>23</sup> as an agreed modus vivendi. At this meeting Ngqika was also fallaciously recognized as Paramount of the western Xhosa. Prior to 1817 and the introduction of Somerset's system the colonist had been obliged to discover what had actually happened to his cattle before crossing the border because cattle were often lost to predatory animals and thieves inside the Colony as well as to Xhosa marauders. According to Somerset's interpretation of the system of reprisals the colonist who had lost cattle did not have to find them or the thief but could trace their spoor to the nearest Xhosa kraal from whose stock he could compensate himself to an equal number, leaving their true owners to demand restitution from the real thieves if it was possible. In practice equal value came to replace equal number, and five Xhosa cattle to one colonial beast was

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<sup>21</sup>Philip and Buxton. Macmillan, Bantu, Boer and Briton (1963 edit.), p.108.

<sup>22</sup>The San, contemporaneously known as Bushmen, together with the Khoikhoi, formed the original inhabitants of the Colony, and were spread throughout it. They existed by hunting, and were progressively forced into the remote northern areas by white and black penetration. See O.H.S.A., Vol. I, pp.43-7.

<sup>23</sup>See Theal, R.C.C., Vol. VI, pp.310-6.

often regarded a fair exchange.<sup>24</sup> Under Somerset's system it also became common practice to follow any convenient trail across the border where previously it had been necessary to determine the correct spoor and follow it to its end. Failure to do this had earlier meant the colonist lost any claim to compensation.

This system was loosely based upon tribal custom and the principle of communal responsibility whereby the tribes recognised that if stolen cattle were traced to a kraal, responsibility for those cattle fell upon the inhabitants of that kraal. But Somerset and his advisers failed to appreciate or merely neglected the nuances of the custom. Traditionally, if a kraal head could show that the spoor did not stop in his area, but only went through it, his people were not held responsible. The Colonial government rejected this and declared that the thieves could not have brought the cattle through the area without the knowledge or connivance of its inhabitants. Moreover, in Xhosa custom once responsibility had been fixed, compensation was made collectively over a portion of the chiefdom so that individual kraals did not suffer too heavily. In colonial practice the compensation taken was from the first kraal.

Stockenstrom underlined the very strong possibility of a clash between reprisal patrols or commandos and tribesmen when he declared before the Aborigines Committee:

The Caffres are very much attached to their cattle...from their attachment to their cattle, on which they principally live (living principally by milk) [these people] are of course very apt to resist their cattle being taken, and such resistance can easily be construed into hostile feeling, and any unscrupulous leader who chooses will then proceed to the last extremity in the execution of his orders, and bring off their cattle. This, I think, gave occasion to great irritation on the part of the Caffres.<sup>25</sup>

The grave injustices which could be accidentally committed under the reprisal system were adequately underlined by Lieut.-Col. Henry

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<sup>24</sup>H.A. Reyburn, 'Studies in Frontier History, V, Reprisals', published in The Critic, Vol. IV, no. 1, October, 1835, p.56.

<sup>25</sup>P.P., 1836, VII, (538), Q 528, p.44, Stockenstrom before the Committee, 14 August, 1835.

Somerset's "blundering commando" of 1825 which twice attacked wrong kraals before arriving at the right one only to find the culprits had been forewarned by their noisy errors and had escaped.<sup>26</sup>

Under the impression that Ngqika was faced with domestic opposition because he had tried to suppress cattle raiding, the practical demonstration of the Colony's support for him as Xhosa Paramount was evidenced by a commando sent across the frontier under Colonel Fraser in January, 1818, to assist him against his rival Ndlambe. Again in December, 1818, Colonel Brereton was despatched to assist Ngqika who had been defeated by his opponents on the plains of Amalinde in October, 1818. During this expedition about 20,000 cattle were taken, part of which were given to Ngqika and part taken back into the Colony as compensation for earlier losses. Before the Aborigines Committee on 14 August, 1835, Stockenstrom declared: "...this led, as I conceive, directly to the attacks of the Caffres on the Sourfeldt in 1819."<sup>27</sup>

The harshness of the reprisal system was in part responsible<sup>28</sup> for the armed resistance of a group of Xhosa chieftains under Ndlambe and the prophet Nxele<sup>29</sup> who had defeated Ngqika in October, 1818, and had attacked Grahamstown in April, 1819. A desire to recover the Zuurveld was obviously another important motivating reason.

At the end of hostilities, Lord Charles Somerset again met with Ngqika in October, 1819. The Governor confirmed his recognition of the chief as Xhosa Paramount and obliged the other chiefs present to recognise Ngqika as such. He thereby failed to recognise that Ngqika

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<sup>26</sup>See Cory, Vol. II, pp.238-9, for details of Somerset's commando.

<sup>27</sup>P.P., 1836, VII, (538), Q 529, p.45, Stockenstrom before the Committee, 14 August, 1835.

<sup>28</sup>For a detailed discussion of the reasons for hostilities between Ngqika and Ndlambe see Peires, 'History of the Xhosa', pp.112-122. Also H.A. Reyburn, 'Studies in Frontier History, VI, From Amalinde to Somerset Mount', The Critic, Vol. IV, No. 2, February, 1836.

<sup>29</sup>Nxele, contemporaneously known as Makana, aroused the Xhosa to invade the Colony in 1819. He was a respected seer among his people, and for many years it was believed he would return from the dead. Peires, op.cit., pp.134-8; also Theal, I, p.329.

had lost influence and face for his agreement to the terms of the Kat River Conference in 1817, and for allying with the commandos of Brereton and Fraser, and now, more than ever, he had less authority to accede to Somerset's proposals or to enforce them. Somerset further declared the Keiskamma River to be the new boundary of the Colony in order to deny the Fish River jungle to cattle raiders. The intervening area<sup>30</sup> was to be cleared of human settlement, apart from a military post on the Keiskamma River. At Ngqika's request, he was permitted to continue to occupy an ill-defined area of the Tyhumie River Valley, a tributary of the Keiskamma. But he was obviously aghast at the cavalier fashion in which his allies had treated him; in the interests of a secure frontier line Somerset had taken three times as much territory from Ngqika as he had from his enemies, the Ndlambes and Gqunukhwebe.<sup>31</sup>

The ceded territory was not kept empty for long. During Somerset's absence in England in 1820-1, the acting Governor, Sir Rufane Donkin, persuaded Ngqika to agree to a short-lived military settlement at Fort Fredericksburg. In the early 1820s Maqoma, Tyhali and Bhotomane<sup>32</sup> were allowed into the northern part of the ceded territory, while

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<sup>30</sup>The terms 'neutral' and 'ceded' territory have been used freely and interchangeably by historians to describe this area. It seems probable that Somerset had intended to cede the area to the Colony, but to keep it empty of colonists and tribesmen, thereby creating a cordon sanitaire. Somerset never used the term 'neutral territory' in his despatches. There is also doubt as to the exact terms of the October, 1819 conference. Somerset announced his terms verbally, no minutes were taken and the two statements of the time - an official communiqué in the Government Gazette, and Somerset's despatch to the Secretary of State - are incomplete. See Hunt, *Sir Lowry Cole*, p.107. Also, Reyburn, 'Studies in Frontier History, VI, From Amalinde to Somerset Mount', *The Critic*, Vol. V, No. 2, February, 1936, pp.114-5. For convenience the term ceded territory has been used throughout.

<sup>31</sup>Reyburn, *op.cit.*, p.115.

<sup>32</sup>Maqoma (1798-1873) was the Right-Hand son of Ngqika, a leading character in frontier history between 1818-1853, and a principal figure in the war of 1834-5. An unwilling participant in the war of 1846-7, he was again active in the war of 1850-3, and was banished to Robben Island at its end, where he died. See D.S.A.B., Vol. II, pp.439-441.

Tyhali (1800?-1842) was a son of one of Ngqika's concubines, and generally considered not as capable as his elder half-brother, Maqoma, but was a leader of considerable importance in the war of 1834-5. See D.S.A.B., Vol. II, pp.755-7.

Bhotomane (1767-1867) was a chief of the Dange clan who were considered notorious cattle-raiders. He was an active participant in the wars of 1834-5, 1846-7, but not, it seems, in the war of 1850-3.

Somerset officially allowed the Gqunukhwebe chiefs Phato, Kama and Kobe<sup>33</sup> to graze their cattle in their former southerly lands, and Bourke later permitted them to reoccupy on sufferance. By 1825 grants of farms to colonists were being freely made between the Fish and Koonap Rivers. The Colonial government considered it possessed a latent right to expel any of the tribes within the ceded territory should it be deemed expedient and necessary. In 1820 the situation along the eastern frontier was further complicated by the arrival of about 5,000 British settlers sent out at government expense. Somerset intended to settle them on the Zuurveld in a dense concentration in order to create a barrier to Xhosa incursions. For a variety of reasons the scheme failed,<sup>34</sup> and instead of a defensive barrier, the Colonial government found it necessary instead to provide protection for the inexperienced newcomers.

Somerset's successor, Major-General Richard Bourke, considered his predecessor's frontier policy harsh and sought to soften it. He established the principle that no armed body of burghers could cross the frontier without the express order of government, or that of the Commandant of the Frontier in the case of an impending invasion. Cattle were not to be pursued across the frontier unless they could be plainly

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<sup>33</sup>Phato (1797-1869) Great son of Chungwa, chief of the mixed Xhosa-Khoikhoi clan, the Gqunukhwebe. Expelled from the ceded territory by Lord Charles Somerset in 1819, he and his brothers Kobe and Kama were eventually allowed in 1825 to graze his herds between the Beka and Keiskamma Rivers. As a reward for their loyalty in the war 1834-5 they were granted a further strip of land along the coast to the Buffels River. In the war of 1846-7 Phato opposed the Colony as a result of Mfengu encroachment near Peddie, but remained loyal in 1850-3, but his clan was decimated in the cattle killing of 1857. See D.S.A.B., Vol. II, pp.684-5.

Kama (1798-1875) was the younger brother of Phato and Kobe and an early convert of the Wesleyan missionary Shaw. His persistently friendly relations with the Colony earned him the enmity of other Xhosa clans, and were influential, together with the encouragement of the Rev. J.W. Shepstone, in his migration first to the north-east Cape, but ultimately to the Middeldrift district. See D.S.A.B., Vol. II, pp.354-5.

Kobe, contemporaneously known as 'Cobus Congo' and a brother of Phato and Kama. Peires, *op.cit.*, also gives short biographical notes on the above in Appendix IV, pp.243-252.

<sup>34</sup>See I. Edwards, *The 1820 Settlers in South Africa*, pp.79-86. Also Theal, Vol. I, pp.327-63; Cory, Vol. II, pp.240-92.

seen and there was a certainty that they could be retaken rapidly, and the military were to be especially careful in patrolling along the colonial border. Upon representation and under direct criticism from Lord Charles Somerset in England, Bourke modified his system to the extent of permitting patrols to cross the border in pursuit of stolen cattle provided they obtained the prior consent of a local magistrate.<sup>35</sup>

Bourke's frontier policy was based on four basic principles. He wanted to prohibit indiscriminate retaliatory raids in pursuit of stolen cattle; to promote legal and controlled trading with the Xhosa; to encourage missionary activity and to attract Xhosa and other labourers into the service of colonial farmers for short periods and under a system of passes to ease the perennial shortage of labour. In 1826 Bourke passed an ordinance which consolidated previous regulations regarding trade fairs, initially promoted by Somerset and Donkin in 1824. The ordinance legalised trading beyond the colonial borders, but prohibited people not in possession of a trading licence from going into the interior. By Ordinance 49 of 1828 Bourke also sought to regularise an existing labour situation, for tribesmen were commonly and illegally employed by frontier farmers. King considered that the real objective of this ordinance was "the ultimate one of solving the problem of the frontier by civilizing and conciliating the Kafirs and turning them into good neighbours."<sup>36</sup> In her analysis of Ordinance 49, Donaldson certainly conceded this as a strong possibility,<sup>37</sup> but noted<sup>38</sup> that it was imperfectly implemented, a fact which in part underlined the inadequacy of the available structure of district administration, together with the inexperience and numerical inferiority of its functionaries.

Bourke's policy was never given an adequate trial. The more important provisions relating to the admission of Xhosa with passes were suspended in August, 1829. Moreover, the Xhosa chiefs suspected

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<sup>35</sup>Hazel King, Richard Bourke, p.111.

<sup>36</sup>Ibid., p.114.

<sup>37</sup>M.E. Donaldson, 'The Council of Advice at the Cape of Good Hope 1825-1834: A Study in Colonial Government', p.378.

<sup>38</sup>Ibid., p.402.

Ordinance 49 as a means to weaken and divide their forces by attracting their followers into the Colony, and they discouraged compliance.

Lieutenant-General Sir Lowry Cole, Bourke's successor, again changed the conditions which allowed a follow-up on the spoor of stolen animals. Assailed on all sides by criticism of Bourke's system, Cole was perturbed by increased depredations and with the advice of his Council, he allowed patrols to follow spoor wherever it led, but instructed that no Xhosa cattle were to be seized as compensation. In this he acted in accordance with the advice of the Commissioner-General for the Eastern Division, Andries Stockenstrom, who, while opposed to the principle of compensation with Xhosa cattle, disapproved of the policy which prevented patrols crossing the frontier on spoor, but strongly believed that such patrols should react promptly upon the discovery of a theft. He also recommended that patrols should be led by an officer or a carefully chosen civilian under strict instructions to re-take stolen property only.<sup>39</sup> The change in policy was sanctioned by the British government towards the end of 1829.

During Cole's governorship a precedent was set in May, 1829, which was to be repeated in 1833 and again in 1834 with disastrous consequences. In that month and on the advice of Stockenstrom, Cole ejected Maqoma from the Kat River Valley for disturbing the peace and attacking a group of Thembu living in the ceded territory at the Governor's pleasure.<sup>40</sup> This expulsion was primarily designed as a show of colonial strength, and to re-inforce the principle that the tribes in the ceded territory were there at the Governor's pleasure, and on sufferance of good behaviour. Stockenstrom suggested that the vacuum created by the expulsion should be filled by a Khoikhoi settlement. In a lengthy minute<sup>41</sup> dated 17 April, 1829, Stockenstrom outlined the benefits which would result from such a settlement. He envisaged it as providing

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<sup>39</sup>Stockenstrom to Cole, 6 February, 1829. Quoted in Hunt, Sir Lowry Cole, pp.100-1.

<sup>40</sup>See Peires, 'History of the Xhosa', pp.201-3 for an account of the reasons for Maqoma's action.

<sup>41</sup>Minute for the Secretary to Government by Andries Stockenstrom, 17 April, 1829. Quoted in Hunt, *op.cit.*, p.101.

a means of repaying Khoikhoi for their loyal service in the disbanded Cape Corps,<sup>42</sup> helping to ease vagrancy, and by giving the Khoikhoi a landed stake in the Colony, he believed such a carefully populated settlement would act as a buffer to Xhosa incursions.

In September, 1829, Stockenstrom made further suggestions concerning the occupation of parts of the ceded territory by Xhosa clans. He recommended that land firstly should be granted as an indulgence as long as Xhosa conduct warranted it. The area from which Maqoma had been recently expelled should be kept clear of tribesmen, and the Khoikhoi settlements established on the Kat River should be extended to its sources. Apart from these provisos, Stockenstrom believed the Xhosa should be liberally treated, the land they could occupy clearly defined, and they should be allowed to cultivate it "to render the loss thereof a matter of greater dread." Through a policy of co-operation with the chiefs, and by imposing firm control on colonial parties in their search for stolen cattle, Stockenstrom believed it would be possible to stabilise the frontier. The whole structure would be consolidated by the establishment of villages and military posts "in order to obtain the desired objects of a dense population and disposable force in the immediate vicinity of the Caffres."<sup>43</sup>

Although Goderich, the Secretary of State for War and the Colonies, was obviously impressed with Cole's reports of the Kat River Settlement's developments, and recommended that the ceded territory might be opened up to "Englishmen and Hottentots, but not Boers" in

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<sup>42</sup>This Corps was originally raised by the Dutch East India Company to serve against the British in 1795. After the British occupation in 1797, the unit became the Cape Corps, but passed into Dutch Batavian service in 1802 as the Hottentot Light Infantry. On retaking the Cape in 1806 the British formed them into the Cape Regiment, although the term Cape Corps persisted unofficially for many years. In 1817 the regiment was largely disbanded, but a small force of mixed infantry and cavalry recruited from among the Hottentots and Coloureds was kept for service on the eastern frontier. These two units were known respectively as the Cape Light Infantry, and the Cape Cavalry and generally as the Cape Corps. In 1827 the Corps was reformed as the Cape Mounted Riflemen, and served until 1870. See G. Tylden, *The Armed Forces of South Africa*, p.49; pp.57-8.

<sup>43</sup>P.P., 1836, VII, (538), pp.211-3. 'Suggestions of the Commissioner-general relative to the Policy to be adopted with respect to the Caffres and the occupation of the Ceded territory beyond the Genappe...' 28 September, 1829.

order to satisfy land hunger in the Colony, and to extend the buffer,<sup>44</sup> Stockenstrom's suggestions were never fully implemented. Instructions from the Colonial Office caused the settlement of the ceded territory to be halted at the junction of the Kat and Fish rivers.<sup>45</sup> The Xhosa alone were to occupy the remainder of the territory, which was thus deprived of the unifying strands of villages and military posts which were to bind the buffer and give it strength.

Cole's measures did not bring peace to the frontier, and the area continued in a state of turmoil. The Xhosa persisted in cattle raiding and an overworked and harassed military endeavoured to prevent such raids and retaliated in turn. In September, 1829, Cole visited the frontier and was informed that in five months more than 5,000 head of cattle had been taken, and only 1,500 had been recovered.<sup>46</sup> At a meeting with the chiefs of the tribes in the ceded territory, Cole declared the 1819 boundary to be irrevocable. He also informed the chiefs that they were bound to help trace stolen cattle, that they occupied the land on good behaviour, and that any misdemeanours like those of Maqoma would be punished by expulsion.

But there was little improvement in the general situation, and Cole grew impatient of Stockenstrom's advice of peace maintained through the goodwill of the chiefs, and increasingly put his faith in patrols to recover stolen cattle. Soon the situation had been reached where Cole's earlier insistence that no Xhosa cattle should be taken as compensation was ignored, and the whole system reverted to the old ways under Lord Charles Somerset. After Cole's departure in August, 1833, the acting-Governor, Lieut.-Col. Thomas Wade, sought to control the frontier with a heavy military hand, and during his five-month tenure of office, Maqoma and Tyhali were expelled from their last grazing grounds beyond the Tyhumie River. Moreover, this operation was carried out during the terrible drought of late 1833.

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<sup>44</sup>Goderich to Cole, 26 May, 1831. Quoted in Hunt, *op.cit.*, p.101.

<sup>45</sup>See P.J. Smuts, 'The Lieutenant-Governorship of Andries Stockenstrom', p.20.

<sup>46</sup>Cole to Murray, 2 February, 1830. Quoted in Hunt, *op.cit.*, p.101.

Cole was undoubtedly aware of the shortcomings of the frontier system, and recommended that in future all agreements with the Xhosa should be put in writing, with a copy for the chief, one for the Commissioner-General, one for the Commandant of the frontier, and with the original filed in Cape Town.<sup>47</sup> He was also keenly aware that without an established militia or sufficient regular troops to patrol the colonial boundaries, commandos were vitally necessary to protect the frontier colonists and as an emergency force. This was particularly true in regard to the long and exposed northern frontier which was totally reliant on burgher commandos in the absence of permanent military garrisons. The commando was also a cheap method of defence as the burghers received no pay, exclusive of their rations, and they provided their own horses and rifles. The Colonial government might reward the leaders of successful commandos or make compensation for pensions, often in the form of tax remittances, to the wives and dependants of burghers killed on such service.<sup>48</sup> Constant calls upon the service of the burghers in the northern districts had rendered them defiant and antagonistic, and led Cole to introduce Ordinance 99 of 1833 in order to ensure their continued compliance .

As Hunt has pointed out Ordinance 99 was no revolutionary measure,<sup>49</sup> and simply restated Lord Macartney's proclamation of 1797, which required burghers to respond to the local landdrost's call-out instructions. The Ordinance also extended this authority to the most junior district officials - Field Cornets and provisional Field Cornets. It was this provision which entrusted what was seen as the terrible power of the commando "to persons of the most indifferent class"<sup>50</sup> to which the

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<sup>47</sup>Ibid., p.102.

<sup>48</sup>See for example P.P., 1835, XXXIX, (252), pp.66-70, Wade to Stanley, 10 December, 1833, reporting a commando against the Corannas in September of that year. Enclosure 1 declared that "His Excellency ...has directed the civil commissioner to forward to Commandant Redel-inghuys and Field Cornet Burger a handsome double-barrelled gun each ..." Enclosure 3 comprised a statement of the expenses incurred by the commando, among them the house rent and taxes of the Widow Louw "from payment of which she is exempt during her lifetime."

<sup>49</sup>Hunt, *Sir Lowry Cole*, p.105.

<sup>50</sup>P.P., 1836, VII, (538), p.249, Q 2374-5, Stockenstrom before the Aborigines Committee, 4 March, 1836.

the humanitarians in England and on the Aborigines Committee took particular exception.<sup>51</sup>

Cole's Ordinance even drew fire from Robert Godlonton in the Graham's Town Journal of 27 June, 1833. Godlonton described the measure as "retrograde" and advocated "bind[ing] the chiefs in an equitable engagement to prohibit aggression and punish delinquents", and the appointment of accredited agents to "see that the stipulations of such an engagement are punctually fulfilled, and that the property of the colonists is duly respected."<sup>52</sup> The Ordinance was subsequently disallowed by the British government.

Cole was adamant about the necessity for a commando system, and in a letter to the Colonial Office after he had returned from the Cape he declared

the commando system ought not to be abolished until some better one shall be devised to supply its place ...I have not been fortunate enough to perceive the means of altering it for the better. The Colony cannot bear the expense of military protection; the powers of the law are insufficient for the purpose and must remain so...<sup>53</sup>

Although Cole meant Ordinance 99 to have its main effect on the northern frontier, its applicability would have been general throughout the Colony, and Buxton envisaged it as "an ordinance directed to the whole population on all the frontiers."<sup>54</sup> But apart from this realisation, the humanitarians in England failed to differentiate successfully between the northern and eastern frontiers, and the measures taken for their respective defence. The Report of the Aborigines Committee in June, 1837, pointed to successes on the northern frontier with the Griquas as indicative of the probability of achieving similar successes on the eastern frontier. The treaty of December, 1834, between the Griqua chieftain Andries Waterboer and the Colony led the Report to

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<sup>51</sup>See for example Buxton's questions to Major Dundas, particularly Q 2759, 2761 and 2762, 14 March, 1836. P.P., 1836, VII, (538), pp.276-7.

<sup>52</sup>C.L., G.T.J., 27 June, 1833.

<sup>53</sup>C.A., G.H. 1/97, Cole to Hay, 15 November, 1833.

<sup>54</sup>P.P., 1836, VII, (538), Q 2762, p.277, Buxton to Dundas, 14 March, 1836.

declare that

...an instructive contrast may be drawn between the tranquillity of this large extent of our northern frontier, protected by tribes humanized by Christianity, and treated with some consideration by our Government, and the constant disturbances along the 80 miles of the north-eastern boundary, fortified as it has been by a large military establishment against the inroads of exasperated natives. <sup>55</sup>

As in the east, the northern boundaries of the Colony had been pushed forward to accommodate the land hunger of the colonists, but the process had been without formal approval, and there were no convenient river lines to facilitate demarcation of a colonial boundary. In the early 1820s a frontier line was established from the confluence of the Stormberg Spruit with the Orange River in the north-east, thence along this river as far as longitude 24°20' east. From there the line went across to the Pramberg before it formed an irregular curve, cut across the confluence of the Zak and Riet Rivers and continued north-west to where the Buffalo River emptied into the Atlantic Ocean. <sup>56</sup> The boundary line thus established was approved by the Colonial government in September, 1824, and although it subsequently exercised its authority within this area, such approval was never formally proclaimed.

This northern boundary was not properly surveyed, and as late as 1832, the Surveyor-General in a letter to the Secretary to the Colonial government complained that it was "very difficult to determine whether lands applied for are or are not in the Colony, whether Crimes (in those regions) are committed within or without the Colony - whether certain Boors [sic] can or cannot claim a right to protection from the Colony." <sup>57</sup>

Apart from the nature of its boundary line the northern frontier differed from the eastern in several other respects. It was largely semi-arid and life revolved around the water holes. Like many parts

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<sup>55</sup>P.P., 1837, VII, (425), p.69, Report from Select Committee on Aborigines (British Settlements).

<sup>56</sup>Theal, Vol. I, pp.393-4. See Map 2.

<sup>57</sup>Michell to Bell, 6 December, 1832. Quoted by L.C. Duly, British Land Policy at the Cape, 1795-1844, p.115.

of southern Africa it was afflicted by occasional and intense drought, but unlike the eastern frontier there was no solid mass of a virile tribal society beyond to resist white penetration. Instead there were small and semi-nomadic groups of Bastards,<sup>58</sup> Namaquas,<sup>59</sup> Korannas,<sup>60</sup> San and Tswana<sup>61</sup> who were refugees from either white colonisation in the south or the Mfecane in the north-east. There were also groups of Griqua at Griquatown, Campbell and Philippolis among whom missionaries had lived since the late Eighteenth Century, and who by the 1830s could claim considerable success at creating established communities. These settlements, however, occupied key positions in regard to the drifts across the Orange River and were subsequently in the direct path of colonial migrants in times of drought.

The northern frontier was kept in a state of turmoil for many years by wandering bands of fugitive Mantatee<sup>62</sup> and Tswana, and bands of half-breeds, Khoikhoi, runaway slaves, outlaws and deserters who infested the Orange River valley, and who made periodic raids against isolated border farmers. The nature of incursions along the northern frontier were thus different from those in the east. D'Urban informed Spring Rice on 28 October, 1834 that the nature of the inroad along the former were of "general pillage and murder", while those in the north-east and east "scarcely ever amount[ed] to more than cattle stealing. This last, however, carried beyond a certain extent, is doubtless a great evil to

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<sup>58</sup>The term 'Bastard' in colonial phraseology usually applied to people of mixed European and Khoikhoi blood. Social ostracism often led them beyond the frontier, either as nomads or as banditti. See J.S. Marais, The Cape Coloured People, 1652-1937, pp.10-12.

<sup>59</sup>Namaquas, a Khoikhoi people living to the north of the Cape's Western Districts. See O.H.S.A., Vol. I, p.43, passim.

<sup>60</sup>The Koranna (or Coranna) were similarly a Khoikhoi people who had moved into the semi-arid northern areas in advance of white settlers. See O.H.S.A., Vol. I, p.68, passim.

<sup>61</sup>The Tswana, a Sotho speaking people, usually present in the 1830s in the modern Orange Free State. See O.H.S.A., Vol. I, p.131f.

<sup>62</sup>In contemporary writings the term 'Mantatee' was used to describe any homeless and pillaging group of tribesmen. For the word's origin see W.F. Lye, 'The Difaqane: The Mfecane in the Southern Sotho Area, 1822-24', op.cit., p.115.

those exposed to it..."<sup>63</sup>

In periods of drought colonists were driven across the Orange River to the water holes and pasturage they could find there. From 1813 onwards accounts regarding drought became so frequent that by 1817 they were the most prominent item in the reports of Field Cornets on the border.<sup>64</sup> The kaptyn of Philippolis, Adam Kok, formally complained to Cole during the prolonged drought of 1828-9 that colonists crossing Griqua lands with their herds ruined crops and utilized Griqua pasture.<sup>65</sup> The Colonial authorities were helpless to prevent such migrations. Apart from an insufficient number of local functionaries to impose the government's will should it decide to do so, the general consideration was that in the particular circumstances of drought it was inadvisable to prevent colonists crossing the frontier in search of water and grazing for their flocks and herds. As The Graham's Town Journal of 3 July, 1834, commented: "The accounts from the northern and eastern frontier describe the drought as severe beyond any period. Many parts of the Tarka and Brak River divisions of the Somerset District are rendered quite uninhabitable."<sup>66</sup>

Many frontier officials turned a blind eye to the migratory habits of the frontier colonists, and at least one Civil Commissioner gave

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<sup>63</sup>C.A., A519, Vol. 20, pp.72-7, D'Urban to Spring Rice, 28 October, 1834.

<sup>64</sup>P.J. van der Merwe, Die Noordweste Beweging van die Boere voor die Groot Trek, pp.178-9. There were severe droughts in 1821 in the north-east and east of the Colony, a general drought from 1827-30, broken in the east in early 1829 and in the north in early 1830. The drought of 1833 sent colonists across the Fish River, and shortly before the outbreak of war in December, 1834, Capt. A.B. Armstrong found colonists as far east as the White Kei River. Despite rains in March, 1834, the condition of the country remained poor, and the situation was only effectively relieved in 1838. See J.G. Pretorius, 'The British Humanitarians and the Cape Eastern Frontier: 1834-1836', pp.21-2. Drought invariably increased frontier tensions. See Peires, 'History of the Xhosa', p.102, "A certain level of stock theft on both sides was inevitable in a frontier situation; a sharp increase denoted some special circumstance, whether drought or Xhosa aggression or Xhosa reprisal."

<sup>65</sup>See Hunt, Sir Lowry Cole, p.104.

<sup>66</sup>C.L., G.T.J., 3 July, 1834.

official permission for colonists to graze their cattle beyond the frontier.<sup>67</sup> Such recognition was contrary to government policy for as Philip pointed out the Xhosa and Griqua were equally hard hit by drought, and besides colonists habitually overstocked.<sup>68</sup> After the rains of February, 1830 ended the drought of 1827-30, strict instructions were given to frontier Field Cornets to prevent further migrations without prior reference to the Governor.<sup>69</sup> But by July, 1830, colonists were again crossing the Orange River, and the government was again powerless to prevent such migrations.

The situation was clearly impossible to control with the limited financial and military resources at the disposal of the Governor, and Cole was doubtful of the protection that could be afforded to peoples like the Griquas because colonial jurisdiction ended at the frontier.<sup>70</sup> Stockenstrom was well attuned to the problem, and believed the colonists would soon establish permanent settlements beyond the Orange River. He therefore recommended that the area should be annexed and systematically administered by the Colony, but he was well aware of the reluctance of the British government to sanction such a move. Nevertheless, he still believed that ultimately the area would have to be annexed "after much mischief shall have been done, and when the task will be more difficult."<sup>71</sup> Cole was also aware of the British government's latent disapproval, for he made no attempt to recommend the idea, and instead resorted to piecemeal measures, as illustrated by his handling of a problem which erupted on the northern frontier in August, 1833, shortly

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<sup>67</sup>For example Maj. William Dundas, Civil Commissioner of the Districts of Albany and Somerset, by his controversial Notice of 14 April, 1828, to the inhabitants of the Sub-district of Taka. Macmillan, *Bantu, Boer and Briton* (1963), p.63.

<sup>68</sup>Philip to D'Urban, draft, 15 July, 1834. Macmillan, *op.cit.*, pp.114-5.

<sup>69</sup>Van Ryneveld (Civil Commissioner of Graaff-Reinet) to Stockenstrom, 15 May, 1830. Quoted in Hunt, *op.cit.*, p.104.

<sup>70</sup>Hunt argued that the idea of extending the jurisdiction of colonial courts beyond the colonial frontiers, later embodied in the Cape of Good Hope Punishment Act of 1836, originated with Cole. Hunt, *op.cit.*, p.106.

<sup>71</sup>Memorandum by Stockenstrom, 30 November, 1830. Quoted in Hunt, *op.cit.*, p.105.

before he left. A group of Tswana sought refuge in the Colony after being attacked by bands of Bastard and Koranna. Cole recommended the expulsion of the Tswana because they were a danger to the Colony, and the Bastards and Koranna were to be warned that if they persisted in their conduct, they would be punished.<sup>72</sup> This was obviously no answer to a potentially explosive problem, and it seems probable that most people in the area desired the strong and just administration that only British power could achieve at that time and in that place.<sup>73</sup> The exercise of that power was not to happen; economy and humanitarian pressure dictated the application of a treaty system.

With the disallowance of Ordinance 99, the Colonial Office under Stanley had directed a new approach to frontier policy to be implemented by the new Governor, Sir Benjamin D'Urban. Control could not be maintained by the British military without a large increase in the number of troops and a corresponding increase in cost. Parliamentary pressure dictated a reduction in British expenses in South Africa, and it was decided that peace and economy could be achieved by a system of treaties with the frontier tribes. By these treaties the chiefs would accept responsibility for the peaceful conduct of their followers in return for small annual gifts.

In December, 1834, D'Urban concluded the first and only written treaty on the northern frontier during his governorship. The treaty was with Andries Waterboer, the missionary dominated kaptyn of Griquatown since 1819, and rival of Kok of Philippolis for the leadership of all the Griquas on the northern frontier. Waterboer agreed to be an ally of the Colony and to preserve the peace along the frontier from Kheis to Ramah, the extent of his own chieftainship. He also undertook to assist in putting down the banditti in that area, to return escaped colonial criminals and to warn the Colony of any premeditated attacks of which he learned. In return the Colony would pay him £100 a year, supply the necessary arms and ammunition, and pay £50 a year towards the schooling costs of Griqua children. Waterboer's chief missionary adviser, the Rev. Peter Wright was appointed the government Agent at Griquatown. He was

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<sup>72</sup>Advisory Council Minutes, 20 August, 1833. Quoted in Hunt, *op.cit.*, p.105.

<sup>73</sup>*Ibid.*

expected to obtain information of the tribes in the interior, keep the Governor informed with monthly reports, and was also to ensure that Waterboer met his obligations.<sup>74</sup>

In a despatch to Spring Rice dated 26 December, 1834,<sup>75</sup> D'Urban explained that the treaty would not only protect the northern frontier from banditti raids, but would also afford the Griquas a measure of protection against encroachment of migrant colonists. But as it stood, the treaty did not secure the entire frontier line, just the area from Kheis to Ramah. To complete it a further treaty with Kok of Philippolis was necessary, and this kaptyn actually presented himself in Cape Town in 1835 with the intention of concluding such a treaty. But D'Urban was on the frontier conducting the war, and the head of the Provisional government, Colonel Bell, was not empowered to conclude a treaty of alliance. Kok consequently returned to Philippolis, and died before the end of the year. It was left to Napier to make a treaty with Kok's successor, Adam Kok III, in 1843.

Many people connected with South African affairs saw in this treaty system a parallel with the system of alliances with princely Indian states.<sup>76</sup> The analogy was a false one. With seven-eighths of the six hundred or so Indian states with which the East India Company was in contact, its relations had never been defined. The Company's relations with the remaining one-eighth were defined by a series of treaties which varied greatly according to the circumstances. Some treaties conferred upon the Company considerable powers of interference in the state's internal affairs, together with control of external relations, thereby rendering its prince a dependent. Other treaties gave the

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<sup>74</sup>P.P., 1835, XXXIX, (252), pp.116-7, Instructions for the Rev. P. Wright, 15 December, 1834.

<sup>75</sup>P.P., 1835, XXXIX, (252), pp.114-6, D'Urban to Spring Rice, 26 December, 1834.

<sup>76</sup>P.P., 1836, VII, (538), p.169. See for example the evidence of Capt. Charles Bradford before the Aborigines Committee on 28 August, 1835, Q 1469-1473. In particular question 1470 put by Buxton: "Do you think that if the same system were observed in our dealings with the natives of South Africa as are observed with the border tribes of India, we should maintain peace in Africa as we do in India?"

Company control of external relations together with the entire resources of the state in time of war, but they also recognized that the princes were absolute rulers within their own territories.<sup>77</sup> The whole system had been evolved over a long period of time in response to the particular needs of the moment, and was an accepted part of Indian politics and diplomacy, with the financial wealth of the Company and the princes to back it. The system was also strengthened by the military power of the Company's considerable sepoy army, trained and officered by Britons and maintained at no expense to the British Treasury. The lure of commercial wealth, a population amenable to military service, and pliable native princes were factors which did not exist on either the Cape's northern or eastern frontiers. Moreover, there was a general consensus among the military officers<sup>78</sup> on the frontier that treaties made with the Xhosa would require an overwhelming force to compel obedience and that force could only be provided by the British, either through regular troops or with native levies raised and officered by the British. Both alternatives involved considerable expense.

Before D'Urban left London to take up his office at the Cape, it is probable that Stanley informed him of the general outline of this new frontier system. Confirmation that it was to be implemented was contained in the Secretary of State's despatch of 27 November, 1833,<sup>79</sup> which reached D'Urban at the end of April, 1834. By that time D'Urban had successfully implemented the system of constitutional government directed by his Instructions. He had also announced the introduction of the new Charter of Justice<sup>80</sup> by a proclamation dated 13 February, 1834,

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<sup>77</sup>C.H.B.E., Vol. V, pp.489-92.

<sup>78</sup>P.P., 1836, VII, (538). See the evidence before the Aborigines Committee of:

Capt. Spiller	Q 772-776,	17 August, 1835, pp.66-7.
Maj. Dundas	Q 1235,	26 August, 1835, pp.138-9.
Lieut.-Col. Cox	Q 3574-3581,	2 May, 1836, pp.432-3.

<sup>79</sup>C.A., G.H. 1/97, Stanley to D'Urban, 27 November, 1833.

<sup>80</sup>This Charter of Justice had its origins in the recommendations of the Commission of Enquiry (1823) for a radical reform in the system of colonial and judicial administration at the Cape. A Charter of Justice dated 6 August, 1827, established a Supreme Court at Cape Town with a Chief Justice and three puisne judges, all professionally qualified and on fixed salaries. A revised Charter to meet the Cape's peculiar

and had overseen its implementation as from 1st March, 1834. D'Urban was awaiting simultaneously the arrival of the despatch of 31 December, 1833, directing retrenchment in the colonial civil service,<sup>81</sup> and the Order in Council instructing the implementation of slave emancipation and apprenticeship.

D'Urban's problems were complicated in respect of the abolition of slavery because of the failure of the British government to send him any definite instructions to guide his actions. The Colonial Office had established its plans for the implementation of the Emancipation Act on conditions in the West Indies with no specific provisions for the Cape where conditions were different. D'Urban only received the Order in Council authorising and directing the way in which emancipation was to be carried out, in late November, 1834, after repeated requests to the Colonial Office. D'Urban explained to Spring Rice that he would have left for the frontier earlier "but that I have been anxiously waiting at the Seat of Government for the Order in Council for the regulation of the slaves who are to become apprentices on the first of December, which has not yet arrived."<sup>82</sup> He also faced an undercurrent of dissatisfaction and muted fear from colonists who saw their security and prosperity being undermined by freed and vagrant ex-slaves. To meet this unrest D'Urban had been advised<sup>83</sup> to introduce a vagrancy ordinance.

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conditions was authorized by the Crown in May, 1832, but Cole postponed the publication of this Charter as it assigned powers to the Governor "with the advice of the Legislative Council". As the Cape quite clearly had no Legislative Council, Cole considered that the promulgation of the revised Charter would not only block the legislative power of the Governor and his Council of Advice, but would also mislead the colonists as to the constitutional changes envisaged by the British government. It was left to D'Urban to promulgate the Charter on 1 March, 1834, shortly after he had commissioned the unofficial members of the Legislative Council on 6 February in accordance with his Instructions. See Hunt, Sir Lowry Cole, pp.153-64.

<sup>81</sup>C.A., G.H. 1/98, Stanley to D'Urban, 31 December, 1833. Received at the Cape on 27 April, 1834.

<sup>82</sup>C.A., A519, Vol. 20, pp.72-7, D'Urban to Spring Rice, 28 October, 1834.

<sup>83</sup>P.P., 1837, VII, (425), Q 640, p.99. Before the Aborigines Committee on 21 April, 1837, Wade declared he had advised D'Urban shortly after his arrival to introduce such an act.

His original draft had been introduced into the Executive Council on 29 March. On 7 May D'Urban introduced the ordinance into the Legislative Council.

D'Urban received Stanley's despatch of 27 November, 1833, towards the end of April, 1834, and on the 29th of that month he laid upon the table of the Executive Council documents of preparatory information relating to frontier affairs. Consideration of this topic was delayed by the almost total absorption of the Council at its next five meetings<sup>84</sup> with the thorny problem of a draft vagrancy ordinance for presentation before the Legislative Council.

Stanley's despatch of 27 November, 1833, stated that although he put little implicit belief in the wilder criticisms of the commando system, there was reason enough to believe that it had been carried on with so much disregard for human life and marked with acts of such cruelty for it to be seen as "a fearful scourge to the Native Population".<sup>85</sup> Stanley objected to the wider powers allowed to provisional Field-Cornets to call out commandos at times of actual or threatened invasion or for the protection of colonists "or when they shall otherwise deem it absolutely necessary..."<sup>86</sup> He also objected to the fact that Ordinance 99 confirmed that aspect of Macartney's proclamation which authorized not only resistance "to those against whom the commandos were to act, but an attack on them", thereby allowing "the sword to be drawn against whole bodies of people at the bidding of a provisional Constable."<sup>87</sup>

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<sup>84</sup>1, 5, 9 April, 5 and 6 May. The exceptions were 1 April and 6 May; on the former date the Council was preoccupied with a circular despatch to colonies with Legislative Councils, dated 8 December, 1831, regarding the arrangement and provision for government expenditure. The Council unanimously agreed that as the Cape now had a Legislative Council, the instructions therein were to be enforced. The latter meeting was devoted to a consideration of the local furore concerning the erection of a new market in Cape Town. But the reason why frontier affairs were not considered on 6 May was that D'Urban had shortly before received Stanley's despatch of 27 November, and had requested each member of the Executive Council to peruse it privately before it was brought forward officially for deliberation.  
C.A., Ex. Co., I.

<sup>85</sup>C.A., G.H. 1/97, p.69, Stanley to D'Urban, 27 November, 1833.

<sup>86</sup>Ibid., p.72.

<sup>87</sup>Ibid., p.76.

Stanley consequently informed D'Urban of the Crown's disallowance of Ordinance 99 and Lord Macartney's proclamation as from 1 August, 1834. In the interim D'Urban was to devise a new system to protect the colonists from unprovoked aggression. Stanley claimed to be well aware that this was "a task of no ordinary difficulty"<sup>88</sup> because of the vast extent of the frontier, the small number of colonists, the limited military resources at hand and "the savage character of the Native Tribes on the frontier".<sup>89</sup> Nevertheless, he believed peace and order could be achieved by cultivating friendship with the Xhosa tribes, stationing "prudent and intelligent" agents among them. In return for small annual presents chiefs could be persuaded to take responsibility for the conduct of their followers, "and by degrees they might learn to appreciate the solid advantages of an authorised barter."<sup>90</sup>

This was the expression of an official line of policy which dovetailed with an aspect consistently pursued by Buxton during the sessions of the Aborigines Committee, notably his belief in a system of just communication with the natives which would lead to a considerable increase in trade.<sup>91</sup> Stanley concluded that he would endeavour to make

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<sup>88</sup>Ibid., p.79.

<sup>89</sup>Ibid., pp.79-80.

<sup>90</sup>Ibid., p.81.

<sup>91</sup>See for example, P.P., 1836, VII, (538): Buxton in the chair, questioning Philipps, a Grahamstown merchant, 5 August, 1835: "Do you think, if a system of justice were established with regard to the natives that it is likely to lead to a considerable increase in trade? P: I have not the least doubt of it. It was progressing most rapidly when I left." Q 342, pp.30-31. Buxton in the chair, questioning Rutherford, a Grahamstown merchant, 18 May, 1836: "Do you think that that mild system [in place of commandos] would be calculated to increase the influence of the Europeans, and to enable us to introduce amongst them the arts of civilized life and, and also to hope to produce in them the principles of Christianity? By a mild system is meant the substitution of something better for the commando system? R: Certainly..." Q 4187, pp.474-5. Buxton in the chair, questioning Stockenstrom, 21 August, 1835: "Are you prepared to enter into a statement of what you conceive would be the most just and effectual policy to be adopted with regard to the native tribes, in order to ensure tranquillity in the Colony, in order to promote commerce and in order to extend the blessings of civilization and Christianity to the native tribes?" Q 1080, p.96. Before the Aborigines Committee on 21 August, 1835, the Wesleyan missionary, the Rev. William Shaw declared: "...attempts were made with a view

adequate provision for the maintenance of those agents. The figure of £600 per annum proposed in Stanley's despatch of 31 December, 1833, was later rejected by D'Urban as totally inadequate for the purpose, and he believed instead that three times that amount was necessary.<sup>92</sup> When Wade gave evidence before the Committee on 25 April, 1836, he made a similar observation on expenses and criticised Saxe Bannister's remarks on "lessening the disturbances in the interior by civilizing the people", a task which Bannister believed could be achieved by political intercourse, adding that "expensive embassies are not needed for the wild people of South Africa."<sup>93</sup> Wade pointedly inquired: "Will Mr Bannister point out the means which have been placed at the disposal of the colonial government at any period for civilizing the people in the interior, or the sum which at the period he is speaking of [1828] had been authorized to be expended, not upon 'expensive embassies', but even in providing for the payment of one solitary agent amongst the tribes on our immediate frontier."<sup>94</sup> Wade thereby underlined the perennial problem which faced the Colonial government - the need to tailor its frontier policies to meet its financial means.

Faced with the problem of developing a new frontier policy, D'Urban characteristically gathered information on the problem, and suggestions as to its solution. It seems clear that the Governor had already determined to follow the broad outlines of Stanley's treaty system. D'Urban declared at the Executive Council meeting of 20 June, 1834, that Stanley's despatch of 27 November, 1833, had resolved the

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of establishing a commercial intercourse with the Caffre tribes, before we had much missionary intercourse with them, the design of which on the part of the Colonial Government was, I believe, to civilize them, as well as to extend our commercial interests, yet the arrangements for the extension of our commerce with the Caffre tribes failed almost entirely, until the missionaries had more fully established themselves in the country..." Q 1101, p.124. Shaw also emphasised the considerable use made among the Xhosa of British manufactures like iron cooking pots, and cotton and woollen goods. Q 1126-1128, pp.126-7.

<sup>92</sup>C.A., A519, Vol. 20, pp.72-7, D'Urban to Spring Rice, 28 October, 1834.

<sup>93</sup>Saxe Bannister, Humane Policy, p.160.

<sup>94</sup>P.P., 1836, VII, (538), p.410, Wade before the Committee, 25 April, 1836.

question "into a comparatively narrow compass"<sup>95</sup> - the abolition of the commando system as from 1 August, and its replacement by a system of friendly relations with the tribes cultivated by annual presents and directed by prudent agents stationed among them. Between the date of his arrival and that meeting, D'Urban cautiously felt his way forward. He listened to all shades of opinion and was desirous to complete his tour of the frontier before he finalised the details. By mid-June D'Urban knew the direction in which his new frontier policy was to proceed; he lacked the finer details and first-hand experience to do so.

Philip had contacted the new Governor within a few days of his arrival at the Cape, and at D'Urban's request he prepared a paper on the frontier system which he presented on the 13 March, 1834.<sup>96</sup> In broad terms Philip advocated written treaties with the frontier tribes, and an enlarged Khoikhoi barrier based on the Kat River Settlement. In February of that year D'Urban asked Thomas Philipps, newly arrived from the eastern frontier, to draw up a statement of his suggestions<sup>97</sup> on how to improve the situation there, and in the following month, W.B. Boyce, the Wesleyan missionary, on his way to England, waited on D'Urban at the Governor's request and endorsed his views in a written document.<sup>98</sup> Lieut.-Col. Wade was also approached for his views on the situation, and during the year D'Urban also interviewed Capt. R.S. Aitchison, a veteran officer of the Cape Mounted Rifles who had been in the service since October, 1819,<sup>99</sup> and the aggressively pro-colonist Capt. Spiller of the Royal Artillery who left the Cape in December, 1834, after 14 months service.<sup>100</sup>

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<sup>95</sup>C.A., Ex. Co., I, 20 June, 1834.

<sup>96</sup>P.P., 1836, VII, (538), pp.687-94, Copy of Philip to D'Urban, 13 March, 1834.

<sup>97</sup>P.P., 1836, VII, (538), p.31, Q 351, Philipps before the Aborigines Committee, 5 August, 1835.

<sup>98</sup>P.P., 1836, VII, (538), pp.179-82, Copy of Boyce to D'Urban, 31 March, 1834.

<sup>99</sup>P.P., 1836, VII, (538), p.309, Wade before the Aborigines Committee, 25 March, 1836. Ibid., pp.9-10, Capt. Aitchison before the Aborigines Committee, 31 July, 1835.

<sup>100</sup>Ibid., pp.66-7, Capt. Spiller before the Aborigines Committee, 17 August, 1835.

The extent of Philip's influence on D'Urban during the period of their secret correspondence<sup>101</sup> and until Philip left for his tour on 13 August, 1834, is open to question. W.M. Macmillan has devoted considerable space to these letters, but it is probable that D'Urban had already decided on the outline of his frontier policy before most of these letters were written. The initial contact between Philip and D'Urban was made on 20 January, 1834, and resulted in the Governor's receiving Philip's memorandum of 13 March. Thereafter their contact seems to have been limited to one letter dated 20 March,<sup>102</sup> and it was not until the last day in May, 1834, nearly a month after he had received Stanley's despatch of 27 November, 1833, that D'Urban reopened the contact with Philip. Less than three weeks later - in mid June, 1834, he laid Stanley's despatch before the Executive Council.

As Macmillan has pointed out, "it is clear that the two men never reached any clear understanding",<sup>103</sup> and the possibility exists that D'Urban was cultivating Philip's friendship as a coldly calculated political move. Philip was an intimate correspondent of the leader of the 'Saints' in parliament, Thomas Fowell Buxton, and Cape governors would naturally be wary of incurring Philip's animosity, and through him, that of the 'Saints' in Parliament. This would be of particular relevance at a time when the commando system had attracted so much adverse criticism of the Cape. But it also made good sense to utilise Philip's extensive knowledge of southern African conditions and his missionary connections both in the Colony and beyond.

Soon after the war began in December, 1834, D'Urban fell out with the London Missionary Society, described it privately as 'the Unnatural Party',<sup>104</sup> publicly forbade James Read, Snr.,<sup>105</sup> from returning to the

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<sup>101</sup>Macmillan, Bantu, Boer and Briton (1963 edit.), pp.106-128.

<sup>102</sup>Ibid., p.108.

<sup>103</sup>Ibid., p.109.

<sup>104</sup>Ibid., p.171.

<sup>105</sup>James Read (1777-1852), L.M.S. missionary at the Kat River Settlement from 1829-51, the outbreak of the Khoikhoi rebellion. Read was an admirer of Philip, and often wrote to him of frontier affairs. He gave evidence before the Aborigines Committee in 1836. D.S.A.B., Vol. I, pp.666-8.

Kat River Settlement lest he roused its Khoikhoi inhabitants, and treated Philip with a venom which was reciprocated. Shortly before the publication of the Aborigines Committee Report in June, 1837, and before it had to be drastically cut after the arrival of D'Urban's belated despatch of 19 June, 1836, Philip cheerfully commented that "the Tories and the King must give way to the Report, and D'Urban's recall must follow as a matter of course."<sup>106</sup> In a letter to D'Urban dated 11 December, 1835, Bell made some interesting observations which gave an indication of the private and sardonic view of the Aborigines Committee held by D'Urban and his Colonial Secretary. Bell wrote: "This Committee will play the Devil if its President and packed members continue to have everything their own way, which, I fear, is almost a matter of certainty. I suspect Dr Philip has received a summons and will be off. He and Stockenstrom will be at fearful odds against the Colony."<sup>107</sup>

It seems probable that D'Urban suggested the desirability of the treaty system to Philip, and not the other way around. Quite clearly Philip would cheerfully have seen the extension of British control as far north as Delagoa Bay "on the plan adopted by the ancient Romans which led them to spread themselves and their institutions over the countries which submitted to their government." In this way he believed the natives would benefit and prosper, and not suffer the "progressive extension of the colonial boundary by the extermination of the natives of the country."<sup>108</sup>

There has also been considerable dispute as to the extent Philip acted as D'Urban's emissary to the frontier chiefs during his tour of August to December, 1834. The evidence is that Philip did agree to act as D'Urban's spokesman to the tribes. Before the Aborigines Committee of 14 March, 1836, for example, Buxton referred to an undated letter he had received from Philip in which the latter had declared:

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<sup>106</sup>Macmillan, *op.cit.*, p.187.

<sup>107</sup>C.A., A519, Vol. 3, pp.205-8, Bell to D'Urban, 11 December, 1835.

<sup>108</sup>P.P., 1836, VII, (538), pp.687-94, copy of Philip to D'Urban, 13 March, 1834.

It is probable that the Colonial Secretary will in justification of the severity which may be exercised upon the Caffres, lay much stress on the facts that the governor had, through my medium, made promises to the Caffre chiefs that when he should arrive at the frontier, he would take into consideration their affairs, redress their grievances, and that a secure and an equitable system of relations between them and the colony would then be introduced. That the governor made such promises, and that I communicated them to a few of the leading chiefs is correct... 109

But it is doubtful whether Philip knew in detail the frontier policy D'Urban intended to implement as D'Urban himself claimed in his despatch of 5 January, 1835, to Spring Rice. He wrote:

I afterwards availed myself of a tour which Dr Philip, the head of the London Mission made through those tribes later in the year - to explain to them more fully and in detail the nature of the agreements which I should be prepared to enter with them provided that meantime they abided by the line of conduct suggested. 110

Macmillan declared this despatch to have been "inspired by the prickings of a bad conscience",<sup>111</sup> intimating that D'Urban felt guilty about his justifiable procrastination in visiting the frontier. He made a valid point by suggesting that Philip could not have known the details of D'Urban's frontier policy because that detail depended upon D'Urban's personal but deferred visit to the frontier.

A further factor in the controversy was contained in Philip's letter to the London Missionary Society in England shortly before he left on his tour in August, 1834. He wrote:

I am the only person in the colony who knows the governor's mind on the subject, but this is a circumstance that must not be known here, and I must not anticipate too much till I see how he will be able to stand in the midst of all his civil and military authorities on the frontier who will do everything in their power to shake his personal

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<sup>109</sup>Ibid., p.268. My emphasis.

<sup>110</sup>P.P., 1835, XXXIX, (252), pp.117-9, D'Urban to Spring Rice, 5 January, 1835.

<sup>111</sup>Macmillan, Bantu. Boer and Briton (1963 edit.), p.120.

resolution, and who will, should any new and pacific system be introduced to supersede the old system, do everything possible to defeat us in our object. <sup>112</sup>

Galbraith succinctly summed up Philip's attitude in this letter as conveying "that the governor had embraced [his] enlightened philosophy but might be seduced by the military and civil authorities. His statement also suggests that he was the bearer of intelligence which only he and the governor possessed."<sup>113</sup> The implication of course is that Philip thought he knew the line D'Urban's frontier policy would take.

Undoubtedly, at the core of the relationship between Philip and D'Urban lay misunderstanding. D'Urban saw Philip as a powerful symbol of the humanitarian movement both at the Cape and in the British Parliament whose conciliation had to be effected by a better directed frontier policy, and Philip failed to see D'Urban for what he really was - a professional soldier, and a Tory with very little faith in the ideals of Whigs and reformers.<sup>114</sup>

On 20 June, 1834, the Governor in Council got down to the serious business of developing a new frontier policy. D'Urban directed their attention to the main points of Stanley's despatch of 27 November, 1833. It was decided that colonial protection could only be achieved by an ordinance which gave some form of defensive organisation to the inhabitants on the frontier and placed them under some form of control as a 'posse comitatus'. The ordinance would not only be necessary to

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<sup>112</sup>Philip to Wilson, 13 August, 1834, quoted in Galbraith, Reluctant Empire, p.107.

<sup>113</sup>Ibid., pp.107-8.

<sup>114</sup>This comes through very clearly in Bell's letters to D'Urban, particularly those of 13, 20 March, 25 June, 21 August and 11 December, 1835. It seems reasonable to assume Bell would not have been so free in his condemnation of the Whigs and Radicals in the British Parliament if he knew that his superior did not approve, or at least refrained from checking such strictures. For example, in his letter of 25 July he declared: "...the present House of Commons is decidedly better than the former one, and the Whig Radicals will not be able to carry through their destructive measures with such large majorities as they commanded last year." C.A., A519, Vol. 2, pp.92-5, Bell to D'Urban, 25 June, 1835. Again in his letter of 21 August he sardonically declared: "They say the Whig-Radicals are moving Heaven and Earth to turn out Lord Hill, but cannot move the King." C.A., A519, Vol. 2, pp.184-90, Bell to D'Urban, 21 August, 1835. It is interesting to note that an Indian agent in British Guiana dismissed by D'Urban, one William Hilhouse, caustically described D'Urban as "a high Tory gentleman." Menezes, British Policy towards the Amerindians..., p.61.

ensure their combination for mutual defence in times of emergency, but it would also be required to prevent the colonists acting unilaterally without constraint or authority "and perpetrating any deeds of violence to which their excitement and the occasion might prompt them."<sup>115</sup>

But the Executive Council realised that the ordinance could only be effective if it was correctly implemented by capable public functionaries. In the straitened financial circumstances of the colonial service, unpaid Field Cornets were the only available instruments, as there were not enough paid Magistrates, and although largely the most intelligent and best informed among the population, it was considered that in the spirit of Stanley's despatch, Field Cornets could not be appointed to such charge and responsibility.

At the end of the day's deliberations the Council decided to approach the Civil Commissioners of the frontier districts for a list of those living near the frontier whom they deemed competent and responsible enough to command others when necessary.

The Civil Commissioner for Worcester, Truter, was invited to participate in the discussion at the next Executive Council meeting of 21 June. Truter informed the Council that in his district, which stretched about 240 miles east to west, there were about 1,300 men capable of bearing arms. Worcester was divided into five field cornetcies of about 250 men and a field cornetcy of 60 men, with only one Field Commandant - positioned in the centre of the district at Hantam. These were the only public functionaries close to the frontier; the three Magistrates in the district were stationed at Clanwilliam, about 180 miles from the frontier, Tulbagh, 240 miles from the frontier, and Worcester, almost 300 miles from the frontier. Along the whole frontier line, Truter could only recommend one person competent to perform the duties of a Justice of the Peace as envisaged by the proposed ordinance.<sup>116</sup>

This was not unexpected news to the Council, but as there was no alternative the Council unanimously advised D'Urban to appoint a sufficient number of Justices of the Peace to take charge of the

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<sup>115</sup>C.A., Ex. Co., I, 20 June, 1834.

<sup>116</sup>Ibid., 21 June, 1834.

respective bodies of 'posse comitatus' along the frontier. D'Urban then requested the Attorney-General to frame an ordinance for the assembly and control of such bodies on the principle that

all persons hitherto liable by Law under the existing Ordinance no. 99, and proclamation therein referred to, to serve on 'Commandoes' [sic] shall upon a summons from their Field Cornet assemble armed at such place as shall be duly appointed under his command, and there await the orders of their Justice of the Peace, duly and specially appointed by the Governor, to issue orders for the employment of such bodies; and until receiving orders they are on no account to act but in their own immediate defence or for that of their families and dwellings. 117

However, at the following meeting on 27 June it was realised that a serious impediment existed to the appointment of such Justices of the Peace. Since the frontier districts could not be expected to supply sufficient Justices of the Peace themselves, they would have to be posted there by the Colonial government and draw a salary from it.

This was the crux of the matter, for by the despatch of 31 December, 1833,<sup>118</sup> which expressly laid down the number and salaries of all Magistrates allowed throughout the Colony, the Governor was commanded "in the most express, precise and positive terms, not to exceed that establishment",<sup>119</sup> and was prohibited from authorising any additional expenditure. The Council considered that as Stanley's despatch of 31 December had been framed only a month after the despatch which disallowed Ordinance 99 and directed alternative measures, the Colonial Office had not therefore contemplated that these alternative measures should mean the authorization of any new magisterial positions. Such creations could not therefore be exempt the strict letter of the despatch of 31 December.

Balked in the proposed measure of appointing Justices of the Peace, the Governor and his Council sought to discover the laws remaining after 1 August which authorized the calling-out or employment of armed colonists for the defence and protection of their homes, lives

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<sup>117</sup>Ibid., 21 June, 1834. Council's emphasis.

<sup>118</sup>C.A., G.H. 1/98, Stanley to D'Urban, 31 December, 1833.

<sup>119</sup>C.A., Ex. Co., I, 27 June, 1834.

and property in times of incursion from beyond the frontier. After exhaustive discussion had revealed the absence of any suitable laws, it was suggested that the opinion of the Judges of the Supreme Court be obtained on the state of existing laws in regard to commandos, together with any alterations fit to be made therein if fresh legislation on the subject should be deemed expedient. The Council further advised that notwithstanding the "imperative commands" of the retrenchment despatch of 31 December, D'Urban should propose the draft ordinance for appointing Justices of the Peace in the Legislative Council, and thereafter "appoint such magistrates as might be indispensably necessary to give it effect."<sup>120</sup> Within three months, however, the Executive Council had again altered its opinion.

After the opinion of the Judges had been considered, and after a circular memorandum<sup>121</sup> to all Civil Commissioners dated 25 July, 1834, outlining the state in which the law would stand after the published disallowance of Ordinance 99 had been laid on the table by D'Urban, the Council declared its considered opinion to be that it would be very hazardous to decide on a new system hastily, and stated "that it is neither necessary nor expedient to come to any immediate determination on the matter..."<sup>122</sup> The further consideration of the topic was deferred to a future meeting of the Council "at an early day". The lengthy and largely fruitless period of the Executive Council's consideration of the problem of an alternative for the system of commandos underlined Cole's earlier assertion that as the Colony was incapable of bearing the expenses of its military defence, burgher commandos were indispensable.<sup>123</sup> Confronted with the logic arising out of Cole's longer experience of the problem, D'Urban's reaction was firstly to inform all Civil Commissioners of the legislation remaining in force to facilitate the call out of the burghers, and secondly, to delay further consideration until he had personally inspected the frontier.

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<sup>120</sup>C.A., Ex. Co., I, 27 June, 1834.

<sup>121</sup>P.P., 1835, XXXIX, (252), pp.113-4. Circular Memorandum, 25 July, 1834. (See Appendix 7.)

<sup>122</sup>C.A., Ex. Co., I, 29 September, 1834.

<sup>123</sup>P.P., 1835, XXXIX, (252), pp.62-4, Cole to Stanley, 15 November, 1833.

His despatch to the Secretary of State, Spring Rice, of 28 October, 1834, revealed a confidence which events were soon to undermine. D'Urban confirmed that a "complete and effectual" reform of the frontier system was "absolutely necessary", but his despatch conveyed no sense of urgency. D'Urban seemed fully confident that the communications he had "caused to be made" had in fact established "a better state of things with the Caffre chiefs on the one side, while other communications at the same time with some of those on the Gariep and Orange River, will have tended, as I hope, to lead the way to more security on the northern border."<sup>124</sup> Despite the problems raised at the Council meeting of 29 September, D'Urban seemed fully confident that these preliminaries were the prelude "to certain relations" which he proposed to establish with the Xhosa upon his arrival on the frontier. He declared that after the tour of the frontier, he hoped to have "set our connexion with our native neighbours upon a permanent and satisfactory footing."<sup>125</sup>

In his despatch D'Urban also carefully explained the reasons for the delay in establishing the new system. At the Executive Council meeting of 27 June the Attorney-General had brought forward the draft ordinance and it was referred to the Judges of the Supreme Court for their opinion. A report from the two puisne Judges, Menzies and Kekewich, in the absence of the Chief Justice who was on circuit, declared the draft ordinance to be defective.<sup>126</sup> When Wylde returned, one and a half months later, he upheld the decision of the two puisne Judges. All three Judges consequently prepared a revised draft<sup>127</sup> and sent it to D'Urban on 11 September. D'Urban informed Spring Rice that "by all these delays it had been impossible to have the new

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<sup>124</sup>Probably an oblique reference to Philip's tour. D'Urban had also instructed Lieut.-Col. Somerset to address the frontier chiefs, which he did on 17 June, 1834. See P.P., 1837, XLIII, (503), pp.129-30, Memorandum, 6 June, 1834.

<sup>125</sup>C.A., A519, Vol. 20, pp.72-7, D'Urban to Spring Rice, 28 October, 1834. These other communications led to the Waterboer treaty two months later.

<sup>126</sup>P.P., 1835, XXXIX, (252), pp.109-112, Menzies and Kekewich to D'Urban, 23 July, 1834.

<sup>127</sup>P.P., 1835, XXXIX, (252), pp.112-3, Wylde, Menzies and Kekewich to D'Urban, 11 September, 1834.

ordinance available...on 1st of August."<sup>128</sup>

To prevent any confusion in the districts on the publication of the disallowance of Ordinance 99, D'Urban had sent a circular despatch to all Civil Commissioners pointing out the laws which remain in regard to the call-out of colonists. In effect, such call-outs were governed by the 28th, 29th and 30th Articles of the Ordinance for the Administration of the Country Districts.<sup>129</sup>

The Earl of Aberdeen, who received D'Urban's despatch of 28 October, 1834, informed the Governor that he saw no objection to the circular despatch. He continued:

Until a new law could be framed as a substitute for that which has been disallowed, you had no alternative but to call upon the civil commissioners to govern their proceedings in regard to hostile incursions of the frontier tribes by those ancient laws of the colony which still remain in force. <sup>130</sup>

Aberdeen concluded on a note of warning that further delay must not be tolerated, and he hoped that once D'Urban had completed his visit to the frontier he would resume "the consideration of the draft of the new ordinance which has been prepared for the regulation of this difficult and delicate subject."<sup>131</sup> At the time Aberdeen wrote this despatch on 12 February, 1835, the Colony had been engaged in the war on its eastern frontier for over seven weeks, and the system D'Urban had contemplated in 1834 was to be drastically modified, first by his policy of May, 1835, and later by the September treaties.

Before proceeding to an analysis of the events of 1834 on the eastern frontier as reflected in the correspondence between D'Urban in Cape Town and Somerset and Campbell on the frontier, it is necessary to consider the military point of view in respect of the Xhosa and colonial relations with them.

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<sup>128</sup>D'Urban to Spring Rice, 28 October, 1834, op.cit.

<sup>129</sup>Ordinance for the Administration of the Country Districts, published 24 October, 1805. Theal, R.C.C., Vol. XXIV, pp.367-431. (See Appendix 7.)

<sup>130</sup>P.P., 1835, XXXIX, (252), p.114, Aberdeen to D'Urban, 12 February, 1835.

<sup>131</sup>Ibid.

As pointed out earlier, one of the anomalies in British administration at the Cape was the fact that with one exception, all D'Urban's predecessors had been military men, and until 1854, with the exception of Sir Henry Pottinger,<sup>132</sup> they continued to be military men, veterans of the Napoleonic Wars, and mostly old comrades of the Duke of Wellington, and Lord Hill<sup>133</sup> and Fitzroy Somerset<sup>134</sup> of the Horse Guards. The Horse Guards was often a decisive element in the choice of Cape governors, and led to adverse criticism to the effect that such governors were incompetent, desirous of achieving the military fame which had previously eluded them and senile.<sup>135</sup> Yet the degree of ability displayed by these Cape governors was generally high, and with the exception of Sir Peregrine Maitland, who was 67 at the time of his appointment, they were mature and experienced men. D'Urban, for example, was 57 at the time of his appointment at the Cape; he had been 43 at the time of his appointment to the governorship of Antigua in 1820. Essentially these men were soldiers first and civil administrators second. Under early British rule at the Cape the responsibility for frontier policy rested wholly with the military authorities, and although missionaries<sup>136</sup> might influence it from time to time, they had no

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<sup>132</sup>Governor of the Cape of Good Hope and High Commissioner, January - November, 1847, and formerly an East India Company politico-soldier.

<sup>133</sup>Rowland Hill, first Viscount Hill (1772-1842) saw service in the Peninsula under Wellington. He later assumed overall command of the Army in February, 1828, and held the post for over 14 years. See D.N.B., Vol. XXVI, pp.411-5.

<sup>134</sup>Lord Fitzroy James Somerset, first Baron Raglan (1788-1855), an uncle of Henry Somerset, Commandant of the Frontier, served extensively on Wellington's staff in the Peninsula. Later appointed Military Secretary at the Horse Guards in January, 1827, he held the post for 25 years. He commanded the British army in the Crimea, and died from dysentery. See D.N.B., Vol. LIII, pp.237-42.

<sup>135</sup>Galbraith, Reluctant Empire, p.69.

<sup>136</sup>One of the most notable exercises of this influence, although belated, was Boyce's objection to the May policy of expulsion and extermination, and his offer that the Wesleyan missionaries would attempt to persuade the chiefs to negotiate for peace. In effect the Wesleyans persuaded D'Urban to abandon his May policy. Seton declared: "Had [the Wesleyans] remained neutral, D'Urban might have blindly persisted in his policy of 'extermination' or expulsion, with his superior military power guaranteeing some kind of success. By their intervention, the Wesleyans benefitted the Xhosa, and secured

official say in the formulation of policy. The fact that before 1854 no governor could claim to have established an effective and popular frontier policy in the east is an indication of the complexity of the problem and an indication of its perennial nature.

Philip strongly believed that the main problem on the frontier was the fact that a distant government in Cape Town could not efficiently control a frontier where there was scarcely any civil administration.

During his campaign on the frontier, D'Urban too became keenly aware of the inhibiting delay occasioned by the distance of Cape Town from the frontier. In a despatch to Aberdeen dated 26 June, 1835, he declared: "At such distances...there are many references to the Governor of which the decisions are unavoidably retarded to the inconvenience of the Parties", and described the eastern provinces where the Governor's superintendence was urgently required as "at once the most distant and the most valuable of the Colony."<sup>137</sup> He accordingly advised either the removal of the seat of government to Uitenhage, which was central to both Cape Town and the frontier, or the appointment of a Lieutenant-Governor. With a degree of prescience D'Urban declared that the former of these would not only result in an increase of expense, but also inconvenience to the colonial service through friction and inefficiency. But if this proved to be the Colonial Office's wish, D'Urban recommended Smith for the post, as he was ex officio the Governor's immediate successor in case of death or disability.<sup>138</sup> Smith was soon to be disappointed by the appointment of Stockenstrom.

Gleneig, undoubtedly appraised of Philip's attitude through his contact with Buxton and of D'Urban's from a perusal of his despatches, informed Stockenstrom in his despatch of appointment of 5 February, 1836, that:

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them easier terms of peace. B.E. Seton, 'Wesleyan Missions and the Sixth Frontier War, 1834-5', pp.306-20. See also Davenport, South Africa: A Modern History, p.37.

<sup>137</sup>C.A., A519, Vol. 20, pp.81-5, D'Urban to Aberdeen, 26 June, 1835.

<sup>138</sup>Ibid.

Amongst the foremost of the evils resulting from this state of things has been the want of any due subordination on the frontier of the military to the civil power. In fact the relations with the Caffre tribes may be said to have fallen permanently under martial law, the administration of justice being left to the commandant and his soldiers. 139

Philip consistently made the point that the frontier required civil administration rather than a militarist approach to its problems. In his last letter<sup>140</sup> to the Governor before leaving the frontier in October, 1834, and which was received by D'Urban in mid-January, at the height of the war, Philip declared that any new system would require a strong hand to control colonial prejudices, but that 'as in India' this hand would have to be controlled by civil administration. He believed that without military help from Europe, the colonists would have to live in amity with their neighbours.<sup>141</sup> Galbraith believed otherwise. He wrote: "Had there been no intervention by the British government, the Boers would either have reduced the Bantu to subjection or would have been exterminated by them."<sup>142</sup> The possibility of genocide seems to have escaped Philip. The Rev. James Read also shared Philip's antipathy to military control, but he seems to have considered its presence necessary. In a letter dated 17 June, 1834, he advised a very subordinate role for the military, stating "the military should never be employed but in very urgent cases and requested by the chiefs."<sup>143</sup>

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<sup>139</sup>C.A., G.H. 1/108, Glenelg to Stockenström, 5 February, 1836, copied to D'Urban. The additional civil establishment allowed on the frontier was: a Lieutenant-Governor for the Eastern Districts (Stockenström), an Agent-General (Hudson), and Resident Agents to the chiefdoms of Ngqika (Capt. C.L. Stretch); the Ndlambes, Gqunukhwebe, and Mfengu (J.M. Bowker); the Thembu on the north-eastern frontier (H.P. Fynn) and the Gcalekas beyond the Kei (W. Fynn). Hudson, Bowker and Stretch were permitted interpreters. A total of 86 'Native Police' were also employed. The total cost to the Colonial Treasury in 1838 for this 'Kafir Agency' was £3,085. C.G.H. B.B. for 1838, pp.124;136.

<sup>140</sup>Macmillan, Bantu, Boer and Briton (1963 edit.), pp.124-5.

<sup>141</sup>Macmillan, *op.cit.*, pp.123-4.

<sup>142</sup>Galbraith, Reluctant Empire, p.5.

<sup>143</sup>P.P., 1837, XLIII, (503), p.167, Read to Philip (?) 17 June, 1834.

That the frontier tribes disliked and feared the military was clear from a letter to D'Urban written by William Chalmers, the Glasgow Missionary Society representative at the Tyhumie mission station. He declared: "I have always witnessed a very great dislike on the part of the Caffres to communicate directly with the military. Whether it was from fear or unwilling [sic] to come in contact with them, I know not; they seem to require a civil agent to stand between them and the soldiers."<sup>144</sup> Yet from the evidence of Thomas Philipps before the Aborigines Committee, it was also clear that all communications with the tribes were regulated by the military "together with the civil commissioners",<sup>145</sup> many of whom were retired<sup>146</sup> or half-paid soldiers. The Wesleyan missionary William Boyce similarly noted the dangers in "managing the frontier Caffres through the medium of a military commandant" but confidently believed that any abuse of power was checked "by the presence of so many missionaries interested in the welfare of the Caffres."<sup>147</sup>

A distinct military view of the proceedings and problems on the frontier existed. It was given expression at the sittings of the Aborigines Committee, and its most vocal exponents were Lieut.-Col. Wade and Major Dundas.

Dundas had occupied two civil positions on the frontier in succession. He had been Landdrost of Albany from March, 1825, until the end of 1827, and Civil Commissioner of Albany and Somerset until the end of June, 1828, and was still of sufficiently prominent military rank and experience to be appointed Cole's military secretary during Wade's leave of absence in the period October, 1828, to February, 1830. Dundas'

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<sup>144</sup>P.P., 1837, XLIII, (503), pp.82-3, Chalmers to D'Urban, 6 February, 1835.

<sup>145</sup>P.P., 1836, VII, (538), p.31, Philipps before the Committee, 5 August, 1835.

<sup>146</sup>For example, Duncan Campbell, the Civil Commissioner for Albany and Somerset was a captain of Marines on half-pay. P.P., 1836, VII, (538), p.77. Evidence of T. Philipps before the Aborigines Committee, 17 August, 1835.

<sup>147</sup>P.P., 1836, XXXIX, (279), pp.45-7, 'Miscellaneous Remarks on the State of the Eastern Frontier of the Cape Colony, by W.B. Boyce, Wesleyan Missionary', 1834.

parent unit had been the Royal Artillery and his varied career was illustrative of the way the military were used in a variety of situations not strictly within their sphere of experience and consequently their capability; it was, in a phrase, 'colonial government on the cheap'.

This procedure was not always appreciated by the civilian beneficiaries of such government measures. Shortly after Captain Armstrong had been gazetted<sup>148</sup> as a Justice of the Peace for Albany and Somerset on 3 January, 1834, on Wade's authority, an editorial in the Graham's Town Journal of 23 January, 1834, declared:

Military men are by no means fitted, either by education or habits for the duties devolving on Justices of the Peace. It has been observed by Gisborne - 'That being trained to habits of implicit obedience, insulated in camps and fortresses, and detached from the offices of civil life, they learn to consider themselves as possessing an interest distinct from that of other members of the community' - ... no man can at once discharge with satisfaction to the public the duties of Justice of the Peace with those devolving upon him as a Military Officer on ACTIVE SERVICE... Captain ARMSTRONG is, in addition to his military pay and allowances as an officer of the Cape Rifle Corps, to receive an annual stipend of £100, and other emoluments, for discharging the duties of Justice of the Peace within the Kat River Settlement. It is understood that he is to continue in command of the Kat River Post...We would, in the spirit of charity, put the best construction upon every public act of the present administration; but in the instance before us we have sought in vain for a single feature in the case which should induce us to withhold our judgement of its utter impolicy as a measure of public expediency. 149

Armstrong's appointment also drew fire from another quarter, but for a different reason, and which could not but fail to impress itself upon D'Urban. In a despatch to the Governor dated 10 June, 1834, the Secretary of State, Spring Rice, confirmed Armstrong's appointment but declared

Such an appointment should not and need not have been made without the authority of His Majesty's Government. My predecessor has very seriously and pointedly warned

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<sup>148</sup>C.L., G.G., 3 January, 1834.

<sup>149</sup>C.L., G.T.J., 23 January, 1834.

you against creating any new appointments, and I entertain a confident hope that you will carefully abide by your instructions on this head. 150

Whatever their private opinions of Buxton's committee, most witnesses, especially those who had held positions of command and trust in the colonial administration and were liable for the natural and often deserved perquisites<sup>151</sup> of such service, were well aware that the Committee was sanctioned and commissioned by the highest authority in the land, and that to be discredited by it could easily mean social ostracism or the withholding of such perquisites. The humanitarian connection was influential out of all proportion to its numbers, particularly in Parliament and the Colonial Office. This is not to suggest that the witnesses failed to act in accordance with the principles of honour, but the thought of the consequences must have been at the back of the minds of many. The Committee was obviously aware of such undercurrents. When he questioned Captain Bradford on 28 August, 1835, Buxton stated: "The Committee are not in the habit of asking for names, unless it becomes necessary, they wish to avoid charges against individuals."<sup>152</sup> Stockenstrom, with his characteristic candour, openly declared: "I am no volunteer here. I am dragged into this business. I may be said almost to be on my defence, but I have no cause to shun the contest."<sup>153</sup>

Dundas was examined before the Committee on two occasions - 26 August, 1835, and 14 March, 1836. At the former session his sketch of the Xhosa tribesman and the latter's need for cattle to increase his tribal status was sympathetic, but heavily underscored by the soldier's experience of frontier conditions and the interminable duty

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<sup>150</sup>P.P., 1835, XXXIX, (252), p.75, Spring Rice to D'Urban, 10 June, 1834.

<sup>151</sup>A colonelcy of a regiment, for example. See p. 39 above. Also see D.S.A.B., Vol. II, p.825, which described Wade, at the time of his death as "a colonel of the First Grenadier Regiment of the Foot Guards". This would seem to confirm that Wade, if not esteemed in military circles, was at least rewarded for his long service.

<sup>152</sup>P.P., 1836, VII, (538), Q 1441, p.164, Buxton's statement.

<sup>153</sup>P.P., 1836, VII, (538), p.150, Stockenstrom before the Committee, 28 August, 1835.

of maintaining the status quo. Dundas described the Xhosa tribesman as manly, enterprising, and warlike in his disposition but sunk in barbarism and with indistinct views of rights of property. He was in fact by nature and disposition a thief, and those who robbed with the greatest success were honoured and esteemed amongst their fellows. The experienced cattle raider only relinquished his trade when he possessed a sufficiency of cattle for his support, leaving the field to his younger and more needy colleagues.<sup>154</sup>

Dundas' view of the frontier situation was not encouraging: "Nothing in my opinion will deter the Caffre from enterprises of a predatory nature...he is a desperate character, while he is poor he will therefore attempt to plunder as long as there is any chance of his succeeding."<sup>155</sup> He continued: "I do not know how it was possible to restrain those depredations or recover cattle, except by sending into [Kaffraria] for them."<sup>156</sup> Dundas also attempted to define the difference between the reprisal and commando systems:

They are not immediately connected; it ought to be understood that the greater part of the Caffre depredations are in the small way : two to three young men associate together and come into the colony to possess themselves of 40, 50 or 60 head of cattle, for a robbery of that kind a commando may not be called out. The military upon the frontier is generally sufficient to recover and to make reprisal for the cattle so taken; it is only on great occasions that a commando is called out, to repress any general movement of the people. 157

For Dundas, a commando implied "the calling together [of] the boors, or farmers and burghers on the frontier, to unite with the military for the general defence of the frontier."<sup>158</sup>

Dundas was blunt in his criticism, and he coloured it with a certain cynicism and believed that had the ceded territory been

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<sup>154</sup>P.P., 1836, VII, (538), Q 1156, p.130, Dundas before the Committee, 26 August, 1835.

<sup>155</sup>Ibid., Q 1159, p.130.

<sup>156</sup>Ibid., Q 1165, p.131.

<sup>157</sup>Ibid., Q 1160, p.130.

<sup>158</sup>Ibid., Q 1162, p.131.

occupied there would not have been one-tenth of the depredations committed on the frontier that happened.<sup>159</sup> He also declared that the frontier had not been adequately protected<sup>160</sup> primarily because of the expense involved in guarding the relatively small population behind the long frontier line and the small number of troops immediately available to defend it. He concluded: "The occupation of posts at the distance of 30 miles from each other never can have the effect of restraining the Caffres, never."<sup>161</sup>

Dundas implicitly supported D'Urban's annexation of the territory between the Keiskamma and Kei Rivers, and declared that if the Fish River frontier was resumed,<sup>162</sup> "I would recommend that the government at home should send out ships to bring every Englishman from that part of the colony to England."<sup>163</sup> He also rejected the Committee's suggestion that the Xhosa had been dispossessed of their land. "Those Caffres are themselves intruders in the country that does not and did not belong to them half a century ago."<sup>164</sup> However, Dundas had the perception to note that one of the principal causes for the Xhosa embarking on war was to find more land on which to graze their cattle, and that from D'Urban's intended expulsion beyond the Kei a great deal of evil and misery would arise.<sup>165</sup>

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<sup>159</sup>Ibid., Q 1170, p.132.

<sup>160</sup>Ibid., Q 1171, p.132.

<sup>161</sup>Ibid.

<sup>162</sup>In fact Glenelg, in his despatch of 26 December, 1835, to D'Urban suggested that white settlement beyond the Fish River should not be allowed. (P.P., 1836, XXXIX, (279), p.72, Glenelg to D'Urban, 26 December, 1835.) Stockenstrom in a letter to Glenelg dated 8 March, 1836, informed the Secretary of State that the area was already populated by colonists, that this had been sanctioned by the Colonial government, and that clearing it would lead to bad feeling and probable emigration beyond the Colony. (P.P., 1837, XLIII, (503), pp.2-3, Stockenstrom to Glenelg, 8 March, 1836.)

<sup>163</sup>P.P., 1836, VII, (538), Q 1222, p.138, Dundas before the Committee.

<sup>164</sup>Ibid., Q 1199, p.136.

<sup>165</sup>Ibid., Q 1240, p.139.

Dundas' perception of the fundamental problem along the frontier was thus keen, but the clarity of his view was noticeably clouded through his own efforts on behalf of the Colonial government to maintain peace and stability along that frontier. He also noted that by throwing the Xhosa back beyond the Kei a situation would arise whereby, if the Xhosa were stronger than those whom they found in occupation of the land, then they would exterminate and destroy those inhabitants and in turn drive them further back; it was 'a natural operation'.<sup>166</sup> Yet Dundas failed to take his line of argument through to its logical conclusion and give voice to something which had been implicit throughout his evidence - the fact that this 'natural operation' was also his own view of Anglo-Xhosa relations.

At this point it is relevant to make a cross reference to a series of three questions that Sir Rufane Donkin put to Philip on 15 June, 1836, all of which dealt with the idea of "enlightened Europeans [settlers]...ultimately driving out and exterminating the unenlightened inhabitants."<sup>167</sup> From the printed page alone, it is impossible to decide whether Donkin actually believed in what he said, or whether he was trying to provoke his arch-opponent, John Philip. At least one modern historian has considered the theme of extermination or genocide.<sup>168</sup> Galbraith declared: "The alien power of Britain prevented establishment of a social order that would have been the product of relative

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<sup>166</sup>Ibid., Q 1238, p.139.

<sup>167</sup>P.P., 1836, VII, (538), Q 4485-7, p.559:

Donkin: "Do you think it possible to prevent, however much it may be to be lamented, enlightened Europeans who settle in a country from ultimately driving out and exterminating the unenlightened inhabitants?"

Philip: "I most decidedly think that it is practicable to prevent it."

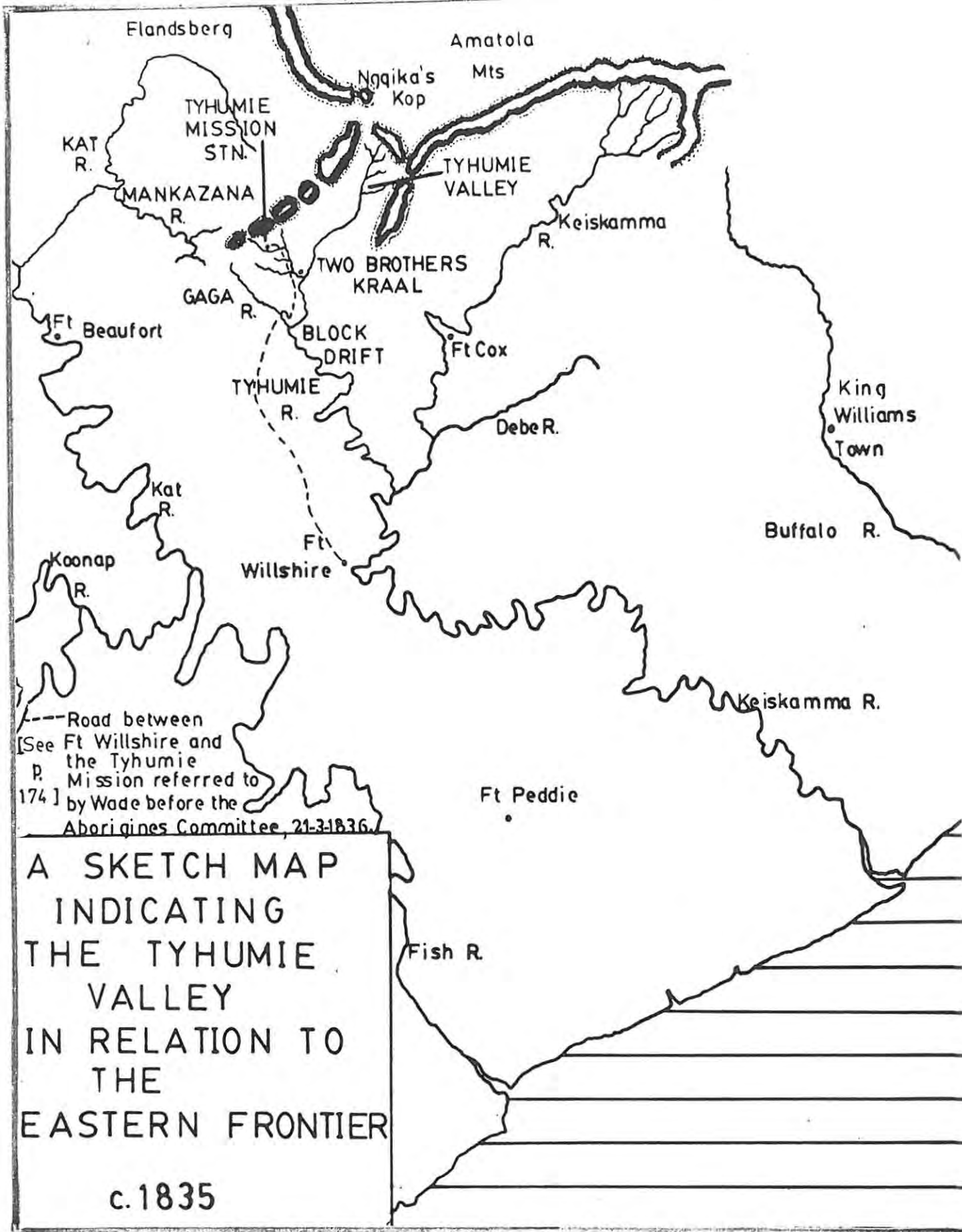
Donkin: "Are you aware that in America it has been distinctly proved and recognized by the chief person of the state, that the natives must be driven out, and yield to the increasing colonists?"

Philip: "I do not at all agree in that opinion."

Donkin: "Have you ever read Mons. Tocqueville's account of the manner in which the enlightened Americans are gradually exterminating the natives in their country?"

Philip: "I have never read the book, but I consider the Americans to be highly censurable for their conduct to the natives."

<sup>168</sup>See p.163.



power within South Africa. Humanitarianism often had the strength to frustrate practices repugnant to British morality; it did not have the force - perhaps it did not have the inclination - to go further."<sup>169</sup> The idea of a process of extirpation at the Cape thus seems to have existed, but it naturally lacked a sound moral base, and wilted in the fierce light of the humanitarian zenith.

The second exponent of the militarist view was Wade. His evidence was voluminous and largely disputive and arose out of the fact that, as he occupied the chief executive position of the Cape from August, 1833, to January, 1834, and was the only witness called with that distinction, he obviously considered he had a responsibility to defend the Colonial government and its policies, and thereby his own conduct, from what he must have seen as rampant disapproval. This was clearly evident in the lengthy defence of his expulsion<sup>170</sup> of Maqoma in November, 1833, from the Tyhumie Valley across what Wade considered a secure colonial frontier.

As to what constituted the frontier line in the upper reaches of the Tyhumie and Kat Rivers after Cole's expulsion of Maqoma from the area in April-May, 1829, is uncertain. Both Theal<sup>171</sup> and Walker<sup>172</sup> clearly believed that Cole's action in expelling Maqoma led to the

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<sup>169</sup>Galbraith, Reluctant Empire, p.5.

<sup>170</sup>Wade's defence of this expulsion is also significant because of the criticism it drew from D'Urban. In a letter to Hay dated 24 March, 1835, D'Urban had declared: "That this invasion had been long concerting I have no doubt, but I have every day more reason to believe that the main cause of this treasured ill-will being brought to a head and exploding in aggression and bloodshed was the (I must think) ill-advised measure of expelling the tribes, composing the family of Gaika, Tyalie, and Macomo from the grounds they had so long held on the Chumie, in October and November, 1833." C.A., A519, Vol. 20, pp.158-9, D'Urban to Hay, 24 March, 1835. (D'Urban's emphasis.)

<sup>171</sup>Theal, Vol. V, pp.242-3, Synoptical Index: "In April, 1829, without a formal proclamation [the frontier line was] extended to the watershed between the upper Tyumie and Kat rivers, an irregular line from the Tyumie to the Kat a little below Fort Beaufort, and the Kat river to its junction with the Fish."

<sup>172</sup>Eric A. Walker, Historical Atlas of South Africa, pp.14-15: "In 1829 the eastern line [of the frontier] was still further advanced to the heights west of the Tyumie, the lower Tyumie, and a line meeting the Kat River below Fort Beaufort."

extension of the frontier to the heights above the Tyhumie and Kat Rivers.<sup>173</sup> The difference between the two views was that Theal was of opinion that the act was not accompanied by any formal proclamation, and Walker's reference to a document in the Cape Archives seemed to indicate the existence of a formal proclamation.

Hunt has argued that there was no such formal proclamation of an extension of the colonial frontier. This, together with the absence of any report to the Secretary of State of an addition to the Colony, led him to declare that Maqoma's expulsion in April-May, 1829, "suggests that officials at the Cape did not consider themselves as exceeding the area delimited in 1819."<sup>174</sup> Wade began the defence of his action by quoting Lord Charles Somerset's despatch of 15 October, 1819, which defined the frontier line in the area of the Tyhumie valley: "It has been finally stipulated that the Caffer border shall in future be the ridge of the Kat River hills from the Winterbergen to where that ridge joins the river Chumie, the Chumie itself to its junction with the Keiskamma, and from thence the Keiskamma to the sea."<sup>175</sup> The reason Somerset did not use the more easily defined Tyhumie River as a frontier line was simple. Ngqika, on whose behalf the Colony had defeated the Ndlambe chiefs in 1819, declared a sentimental attachment to the well-watered Tyhumie valley, and the Governor was disposed to grant the indulgence.<sup>176</sup>

Wade pointed out to the Aborigines Committee that it was his opinion that there was one point in the centre of Somerset's boundary

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<sup>173</sup>See Maps 4 and 5.

<sup>174</sup>Hunt, Sir Lowry Cole, p.100.

<sup>175</sup>Theal, R.C.C., Vol. XII, pp.337-41, Lord Charles Somerset to Bathurst, 15 October, 1819. By 'the ridge of the Kat River hills' and from Wade's later interpretation of this phrase, it would seem that Somerset was referring to the broken ridge of high ground to the immediate west of the Tyhumie River, and extending south west from Ngqika's Kop. See Reyburn, 'Studies in Frontier History, VI, From Amalinde to Somerset Mount', op.cit., p.115, fn.1: "It should be noted that the Kat River ridge of those days is not the modern Katberg. It comprised the line of hills running south from Gaika's Kop, including Juannasberg." Also see Map 5.

<sup>176</sup>Reyburn, op.cit., p.114.

which had neither water line nor mountain ridge to indicate it, and could therefore be easily misinterpreted.<sup>177</sup>

In 1822 Stockenstrom had indicated to Lieutenant Pettingall of the Royal Engineers, "the precise line in that quarter", and in October, 1833, when the expulsion of the Xhosa tribesmen made it imperative to know the connecting link between river and mountain Wade, in Cape Town, had Lieutenant Pettingall trace that link upon the acting Governor's map of the frontier.

Lieutenant Pettingall informed me that it was not the 'Gaga' stream, which falls into the Chumie at a place called 'Block Drift', and has its source not in the Kat mountains, but in that ridge running parallel to the rivers [Chumie], but the next stream the Corookokoo, above the 'Gaga', which flowing directly from the Kat mountain, falls into the Chumie at the 'Two Brothers Kraal' that formed the connexion in this part of the line.<sup>178</sup>

The interpretation of this statement is made difficult by the task of deciding what high ground Wade meant by 'the Kat mountain', and also what he called the 'Corookokoo' river, which appeared on neither of the Arrowsmith maps of the eastern frontier of 1848<sup>179</sup> and 1851.<sup>180</sup> But by employing Arrowsmith's map of 1848 in conjunction with a modern map,<sup>181</sup> it seems almost certain that Wade's 'Kat mountain' corresponds to the Gwalie or Tyhumie Peak, which is the highest point in the area immediately near the Gaga river. The Gwalie river, rising at the foot of this peak would then be the river Wade called the 'Corookokoo'. This conviction is strengthened by the fact that the Arrowsmith map of 1848 placed Two Brothers Kraal - quoted by Wade as the place the Corookokoo river flowed into the Tyhumie - at the confluence of the Tyhumie and an unnamed river, but which was situated immediately above the Gaga and flowed past the Tyhumie mission station. Again this

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<sup>177</sup>P.P., 1836, VII, (538), p.292, Wade before the Committee, 21 March, 1836.

<sup>178</sup>Ibid.

<sup>179</sup>C.L., MP 150.

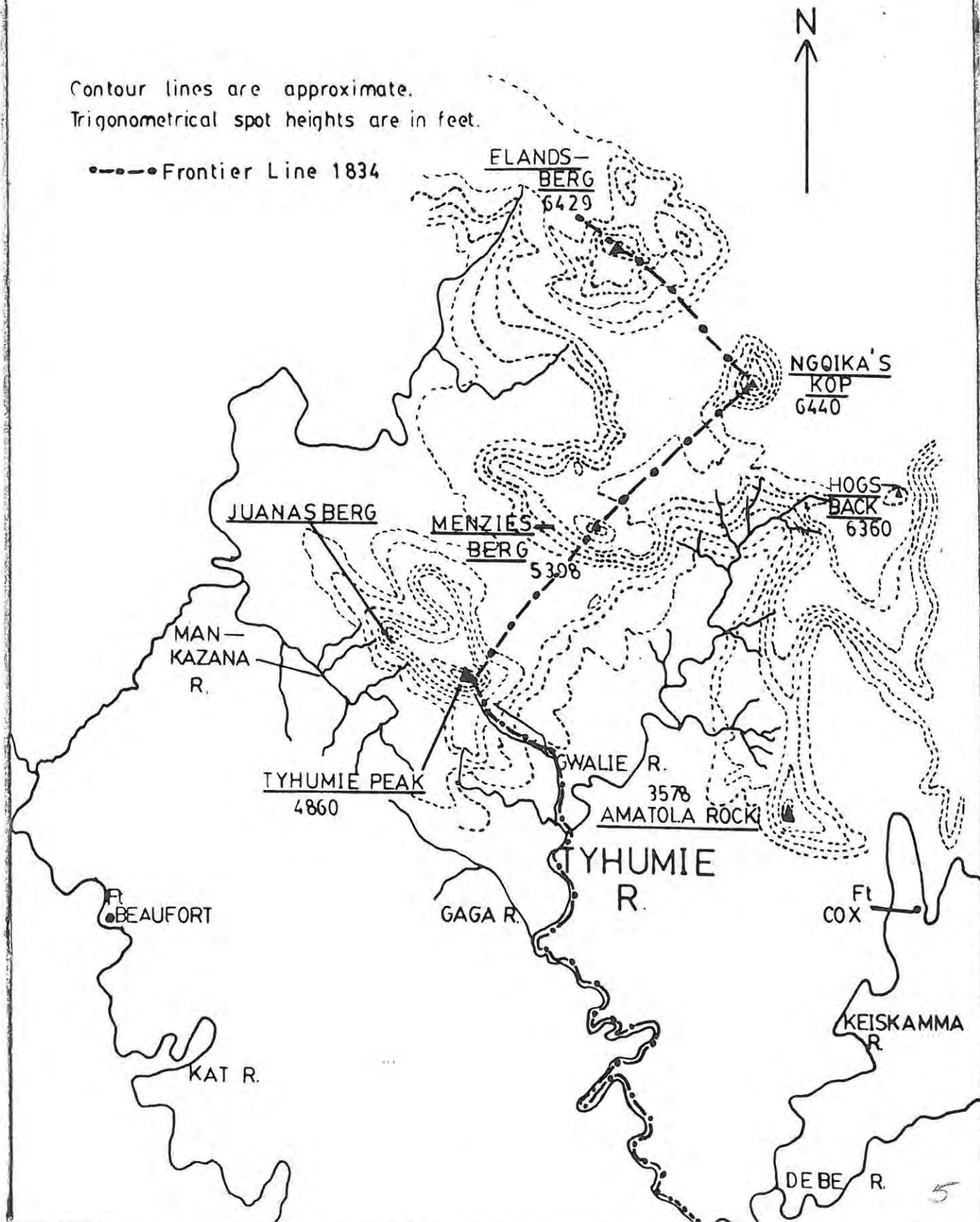
<sup>180</sup>C.L., MP 193.

<sup>181</sup>C.L., MP 602, 1:50,000, Seymour, 1965.

# THE TYHUMIE RIVER VALLEY SHOWING:

a) The broken nature of the high ground surrounding the Tyhumie river, particularly that lying south-west of Ngqika's Kop.

b) The Tyhumie Peak and the Gwalie river which probably correspond to Wade's 'Kat Mountain' and 'Corookokoo river' [P.P. 1836, VII(538), pp 293-2 Wade before the Aborigines Committee, 21 March 1836.]



correlates with Wade's description of the river in question as the one "above the Gaga".<sup>182</sup> Thus as far as Wade was concerned, the 'Corookokoo' river formed the colonial frontier in that particular area.

Wade also unconvincingly explained why the upper stream had been chosen in preference to the Gaga.

Had the Caffres, when Lord Charles Somerset conceded to them permission to retain the basin of the Chumie, been permitted to extend along the right bank of that river as far as the Gaga, and that thence the boundary was to ascend the left bank of the latter stream to its head, the completely open space which intervenes between that point and the one where the Kat Burg [sic] terminates, would have afforded them the readiest access to the country from whence they had just been expelled; whereas by adopting as the boundary and confining them behind the upper stream, which, as already stated, runs directly from the Kat mountain [Gwalie Peak] to the Chumie, they were, although badly [sic] shut out, yet as completely so as the nature of the country there would admit of.<sup>183</sup>

The rationale behind Wade's expulsion of Maqomo (as he explained it) arose out of Cole's decision to expel Tyhali and his people from the Mankazana River to beyond the colonial boundary. Wade further claimed that the whole subject of Tyhali's expulsion had been discussed shortly before Cole had embarked for Europe on the 10 August, 1833.<sup>184</sup> The Colonial government considered that Tyhali was using the indulgence granted him of remaining within the ceded territory to plunder the Kat River Khoikhoi, particularly as the settlement was at the extreme boundary of the district and the Mankazana so situated as to provide an easy ingress route. Tyhali and his people were accordingly expelled in September, 1833.

Wade informed the Committee that depredations nevertheless continued in the Kat River Settlement. Wade declared that at the time he was under the impression, as he knew Cole had been when he embarked, that "there did not remain a Caffre north of Fort Willshire, with the

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<sup>182</sup>P.P., 1836, VII, (538), p.292, Wade before the Committee, 21 March, 1836.

<sup>183</sup>Ibid., p.292.

<sup>184</sup>Ibid.

exception of a small portion of Boteman's people, who could possibly molest or interfere with the Hottentot locations."<sup>185</sup>

Wade subsequently discovered Maqoma had established his kraal near Fort Willshire, and that his people occupied "a considerable portion of the strip which running northwards towards the Kat mountain, is enclosed between the river and the waggon road leading from the Chumie missionary station to the fort." Wade believed that the protection Cole had intended to afford the Khoikhoi locations by the exclusion of Tyhali's people from the Mankazana valley had neither been attained nor was likely to be, so long as Maqoma remained in possession of the Gaga Valley, and the tract as far south as Fort Willshire, especially as the headwaters of the Gaga river were within a short distance of the source of the Mankazana River. Wade's solution was therefore to remove both Maqoma and Bhotomane's people beyond the colonial frontier;<sup>186</sup> this was completed in November, 1833.

Two things were immediately apparent in Wade's explanation. The first was that fourteen years after Somerset's verbal treaty of 1819 with Ngqika, the Colonial government was still uncertain as to the exact line of frontier demarcation in the area of the Tyhumie Valley. The second was the sense of professional callousness and singlemindedness which Wade exhibited, and which was again indicated in his recounting of his unofficial frontier tour in mid-1835:

I felt fully satisfied that the opinion I had adopted the year before was a correct one, namely, that it was absurd to pretend to protect the [Khoikhoi] locations whilst the Caffres were permitted to occupy the country in question, and that it was an act of mercy to remove the latter from the temptations which must attach to their close proximity to the borders of the settlement. <sup>187</sup>

The officer physically charged with the expulsion of Maqoma, Capt. Aitchison, stated in his evidence before the Committee that whilst the officers on the frontier were at least disposed to allow the Xhosa to

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<sup>185</sup> Ibid., p.292.

<sup>186</sup> Ibid., pp.292-3.

<sup>187</sup> Ibid., p.293. My emphasis.

gather in the harvest before carrying out their orders, they were overruled and "a peremptory order arrived for the removal of the Caffres",<sup>188</sup> thus preventing the tribesmen from harvesting before their removal.

Yet a review of Aitchison's evidence reveals an attitude not unlike Wade's. He disparaged treaties, declaring, "the Caffre does not care one farthing for any agreement; he has no principle about him. I believe there would have been the same quibbles [on the frontier] if there had been a written agreement."<sup>189</sup> Aitchison also declared that in his experience the colonist was seldom the aggressor<sup>190</sup> on the frontier, and he saw nothing wrong in seizing Xhosa cattle in reprisal for the loss of colonial cattle.<sup>191</sup> Nevertheless, he was critical of the lack of consistency in the Colonial government's frontier policy and admitted to the potential of that inconsistency for creating unrest.<sup>192</sup> When asked whether the missionaries had improved the character of the tribesmen, Aitchison declared "not in the least" and dismissed them as "generally mechanics, blacksmiths and that sort of thing."<sup>193</sup>

Capt. de la Poer Beresford, the aide-de-camp D'Urban sent to London to explain his May policy, clearly summed up the military view of D'Urban's frontier solution when interviewed before the Committee on 14 March, 1836. He declared that it was

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<sup>188</sup>P.P., 1836, VII, (538), Q 118, p.8, Capt. Aitchison before the Committee, 31 July, 1835. The continuing importance of the Tyhumie Valley to Maqoma's descendants is indicated by the fact that his great-grandson and present Minister of the Interior of the Ciskei, Chief Lent Maqoma, has his Great Place in the valley near Alice, and also by the fact that when the remains of his ancestor were exhumed from Robben Island in August, 1978, for reburial at the base of the Ntaba Ka Ndoda peak in the Amatolas, the coffin lay in state at this Great Place for a week before the final burial. Interview with Chief Maqoma, Zwelitsha, King William's Town District, 7 May, 1980.

<sup>189</sup>Ibid., Q 32, p.3.

<sup>190</sup>Ibid., Q 176, pp.11-12.

<sup>191</sup>Ibid., Q 73-84, pp.5-6.

<sup>192</sup>Ibid., Q 66, pp.4-5; Q 154-5, p.11.

<sup>193</sup>Ibid., Q 173, p.11; Q 177, p.12.

impossible that the governor could suffer such an unwarrantable aggression to be undertaken against the colony with impunity, nor could encouragement be given to the savage inroads of the barbarous natives by a course of pusillanimous concession and ridiculous forbearance...The governor, having himself personally examined the country, came to the determination to contract the extent of frontier line, and to place under British subjection the country between the Keiskamma and the Kei, as being the only means of resisting further aggressions, and placing the colony on a footing of permanent security, the good and peaceful policy of which the Caffres themselves appear to be sensible of, and the chiefs have already placed themselves under British subjection. 194

The general conclusions to be reached after reviewing the evidence of the military are that they found the system of patrol, reprisal and commando unevenly applied,<sup>195</sup> and favoured a more uniform military solution to the problem of frontier pacification. Capt. Spiller, for example, declared: "Had there been a stronger force on the frontier and consequently more looked after [the Xhosa] could not have committed those depredations."<sup>196</sup> He also suggested a military man in the trans-Keiskamma territories to hear and sort out complaints,<sup>197</sup> and a buffer zone of armed Khoikhoi between the Colony and the Xhosa.<sup>198</sup> Spiller's views with regard to a buffer of Khoikhoi villages and a colonial agent across the frontier to help settle problems were a reflection of the popularity of these ideas in the Colony. However, in all this it must be remembered that all these officers were members of a disciplined and hierarchical organisation, and as Capt. Blakeman declared before the Committee on 28 August, 1835: "I followed my orders in sending out

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<sup>194</sup>P.P., 1836, VII, (538), Q 2642, p.266, Capt. de la Poer Beresford before the Committee, 14 March, 1836.(My emphasis. See p.151.)

<sup>195</sup>See, for example, Capt. Aitchison's reply to Q 154, before the Committee on 31 July, 1835, and Capt. Spiller's reply to Q 772, before the Committee, 17 August, 1835. P.P., 1836, VII, (538), pp. 11; 66.

<sup>196</sup>P.P., 1836, VII, (538), Q 773, p.66, Capt. Spiller before the Committee, 17 August, 1835.

<sup>197</sup>Ibid., Q 817, p.69.

<sup>198</sup>Ibid., Q 862-71, p.73.

patrol[s]; I felt much, but the idea of duty superseded every other idea in my own mind."<sup>199</sup> The role of the military was not to question; it was the instrument of the government's will.

A close study of the correspondence between the Governor and his subordinates on the frontier during the period January to December, 1834, is essential for two reasons. Firstly, it indicates that the frontier tribes were kept in a state of ferment by a series of expulsions<sup>200</sup> begun in 1829, continued by Wade in 1833 with the expulsion of Tyhali from the Mankazana valley in September and Maqoma and Bhotomane from the ceded territory in November, and resorted to again in February, 1834, largely it seems as a result of friction between Somerset and Campbell. Secondly, an examination of this period indicates that Cory, and especially Macmillan, were incorrect in assuming that upon reaching the devastated frontier in January, 1835, D'Urban's "reforming zeal evaporated" and that he threw his weight behind those who believed in "the sovereign efficacy of powder and ball."<sup>201</sup>

Maqoma, Tyhali and Bhotomane were expelled beyond the ceded territory in late 1833 on the acting Governor's instructions during a period of great drought, and at a time when Henry Somerset, Commandant of the Frontier, was on leave in England. When Somerset returned, he was forcibly impressed with the need to relieve the suffering of the Xhosa. He accordingly obtained D'Urban's permission<sup>202</sup> to allow Maqoma and Tyhali to graze their cattle on part of the land from which they had been recently expelled - the western bank of the Tyhumie - for the duration of the drought. But it seems that Maqoma and Tyhali

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<sup>199</sup>P.P., 1836, VII, (538), Q 1328, p.145, Capt. Blakeman before the Committee, 28 August, 1835.

<sup>200</sup>It is, of course, quite easy to extend this as far back as, and even further than, Cradock's clearing of the Zuurveld in 1811-12. The post-1829 expulsions differed in that they were legitimized on the grounds that the Xhosa tribesmen in the ceded area were there on the sufferance of the Colonial government, and were expelled for troublesome behaviour.

<sup>201</sup>Macmillan, Bantu, Boer and Briton (1963 edit.), p.127. See also Cory, Vol.III, p.183.

<sup>202</sup>P.P., 1837, XLIII, (503), p.104, Maj. Dutton, acting Military Secretary, to Lieut.-Col. Somerset, 31 January, 1834.

in effect repossessed, or were believed to have repossessed, the country they had received permission to occupy temporarily.<sup>203</sup> It also transpired that either through negligence or deliberate intent Somerset had not informed the Civil Commissioner for Albany and Somerset, Duncan Campbell, that the Governor had authorised grazing rights to Maqoma and Tyhali within the ceded territory.

Campbell was justly annoyed that he had not been consulted.<sup>204</sup> Somerset was also alarmed about the fact that Maqoma and Tyhali were "wandering all over the country",<sup>205</sup> for although "they have been permitted to graze along the banks of the Chumie where there was abundance of grass, the idea of allowing them any further indulgence has not been entertained."<sup>206</sup> As a result, the cattle of Maqoma and Tyhali were expelled beyond the frontier.<sup>207</sup> There was clearly a breach, or at best a lack of communication between civil and military authorities on the frontier.

D'Urban was deeply perturbed about this state of affairs. In a memorandum dated 7 March, 1834,<sup>208</sup> he rebuked Somerset for failing to keep Campbell fully informed on such an important matter. In his reply,<sup>209</sup> Somerset promised to give Campbell his "best support" and keep him fully informed on all future occasions.

D'Urban, preoccupied in Cape Town, was prepared to follow the advice of the men on the frontier, both of whom were experienced frontiersmen. Somerset in particular had first seen service on the eastern frontier during the war of 1819, and had been appointed Commandant of the Frontier in July, 1825.

In a letter dated 2 May, 1834, Somerset informed D'Urban of a meeting he had at Wesleyville with Kobe, Kama, Nqeno, Phato and other

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<sup>203</sup>Ibid., p.104, Campbell to the acting Secretary to Government, J.G. Brink, 27 February, 1834.

<sup>204</sup>Ibid., pp.106-7, J.G. Brink to Campbell, 7 March, 1834.

<sup>205</sup>Ibid., p.105, Somerset to Campbell, 27 February, 1834.

<sup>206</sup>Ibid.

<sup>207</sup>Ibid., p.105, Somerset to Dutton, 28 February, 1834.

<sup>208</sup>Ibid., pp.107-8, Memorandum, 7 March, 1834.

<sup>209</sup>Ibid., p.115, Somerset to Dutton, 14 March, 1834.

chieftains, and the lengths to which he had gone to reassure them that the Colonial government had no intention of driving them from the ceded territory. Somerset also suggested presenting Kobe, Kama and Phato with "some mark of [your] Excellency's approbation". With an eye for economy, the Commandant noted that he could purchase three horses for about £2 to £3 each, and concluded by stating that "one of these presented to each of those chiefs would be highly prized by them."<sup>210</sup> D'Urban approved and authorized their purchase.<sup>211</sup>

Again, on 30 April, 1834, Campbell had suggested that any incident involving tribesmen shot by military patrols within the Colony be reported to the civil authorities for legal investigation, and that any incident involving the death of a tribesman beyond the frontier be investigated by a military court of inquiry. The reason for this, Campbell explained, was because there were people "who designedly mislead the public on all transactions that occur in our intercourse with the Caffres."<sup>212</sup> D'Urban fully approved of this suggestion and instructed Somerset to ensure that in future all soldiers involved in such incidents were guided by Campbell's suggestions.<sup>213</sup>

As indicated earlier, it is probable that by the end of June, 1834, D'Urban knew the kind of frontier policy he wanted to implement. In a memorandum to Somerset dated 6 June, 1834, he had instructed the Commandant to inform an assembly of the chiefs of the Governor's intention of touring the frontier soon "to introduce a new order of relations with them, upon a footing which I cannot doubt would be as advantageous as agreeable to them."<sup>214</sup> But in order to show that they deserved this friendship, D'Urban directed that he required the chiefs to suppress the outbreak of cattle stealing which had ravaged the

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<sup>210</sup>P.P., 1837, XLIII, (503), p.121, Somerset to Dutton, 2 May, 1834.

<sup>211</sup>Ibid., p.122, Dutton to Somerset, 9 May, 1834.

<sup>212</sup>Ibid., pp.122-3, Campbell to acting Secretary to Government, 30 April, 1834.

<sup>213</sup>Ibid., pp.122-3, Dutton to Somerset, 9 May, 1834.

<sup>214</sup>Ibid., pp.129-30, Dutton to Somerset, 6 June, 1834, enclosing D'Urban's memorandum of the same date.

frontier districts for several months past.<sup>215</sup> D'Urban also authorised Somerset to make the announcement that he had suggested to the Governor in his letter of 30 May, 1834, to the effect "that all armed Caffres found traversing the country, or lurking in the fortresses afforded by the woods of the Koonap and Fish River districts, will be fired upon by the patrols."<sup>216</sup>

D'Urban concluded his memorandum by instructing Somerset to proceed upon the principles that the first and "most imperative duty" was to protect "His Majesty's unoffending and unaggressing subjects living within the proper boundary of the Colony", and that if the Xhosa persisted in their "marauding, and especially armed, they must be treated like other banditti who get themselves shot in the act of theft, plunder and housebreaking, or in the undoubted intention to commit it."<sup>217</sup> However, D'Urban was careful to distinguish that colonists who proceeded beyond the frontier did so illegally, and forfeited any claim to protection by the Colonial government.

The Memorandum of 6 June, 1834, indicated the steel which underlay D'Urban's embryo frontier policy; the war and his association with the military officers and dispossessed colonists in Grahamstown emphasised its harsher aspects. D'Urban may have been shocked by the spectre of burnt cottages and ravaged countryside which confronted him on his journey from Port Elizabeth to Grahamstown in early January, 1835, but they were no different from the ravages of war he had experienced in six years continuous service in Spain and Portugal between 1808 and 1814. If anything, the barbarities and suffering inflicted in the course of the Peninsular War were considerably worse.

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<sup>215</sup> See, for example, C.A., A519, Vol. 20, pp.57-9, D'Urban to Philip, 14 July, 1834: "the amount of Stolen Cattle from farmers in the District of Albany and Somerset, within the six months preceding the middle of June, has been, in round numbers 900 head and of horses, 100. And that by my last week's reports, I see that the robberies have been lately attended with more than one attempt at murder, and great ill-use of women."

<sup>216</sup> P.P., 1837, XLIII, (503), p.125, Somerset to Dutton, 30 May, 1834.

<sup>217</sup> Ibid., pp.129-30, Memorandum of 6 June, 1834.

Like Cole, D'Urban saw the ceded territory as a territory under his jurisdiction. The tribes who lived there did so on sufferance, and could be expelled for bad behaviour. Continued reports of depredations after Somerset's meeting with the chiefs on 17 June led D'Urban to consider exercising that authority with regard to Nqeno, whom he considered to be undeserving of favour at the government's hands. In a despatch dated 15 August, 1834, the Governor requested Somerset's opinion as to whether Nqeno should be expelled and his land granted to Phato, Kobe and Kama, whom he considered dependable. In the same despatch he also requested Somerset's opinion of a policy of allowing Maqoma, Bhotomane and Tyhali to reoccupy the territory from which they had been expelled in late 1833. D'Urban believed that this plan

properly arranged and settled, might convert these people into useful border neighbours, and hold them in that state under the bond of their own interest; and I cannot doubt from all that I have learned, from corroborating and very trustworthy sources, that the ill-feelings engendered by that expulsion [1833] have occasioned much of the depredation and robbery of the last few months. <sup>218</sup>

Somerset's reply of 22 August, 1834, rejected any such indulgence to Maqoma and the others until some atonement had been made for colonial cattle losses. He also believed it would be unjust to single out Nqeno for punishment when he considered Tyhali, Maqoma and Bhotomane all equally guilty.<sup>219</sup> The reasoning behind this projected re-arrangement of tribes along the frontier seems to suggest D'Urban was considering the idea of creating a buffer of friendly tribes between the Colony and the Xhosa, and certainly the Mfengu were later strategically placed in the ceded territory.<sup>220</sup>

These despatches strongly underline the attitude of the military; the latent power they possessed gave them the confidence to order affairs on the frontier as they deemed expedient, with little con-

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<sup>218</sup>P.P., 1837, XLIII, (503), p.147, D'Urban to Somerset, 15 August, 1834.

<sup>219</sup>Ibid., pp.147-8, Somerset to D'Urban, 22 August, 1834.

<sup>220</sup>See pp.195-6.

sideration for simple human dignity or justice. In return for the prevention of cattle raiding they were prepared to extend grazing and settlement rights within the ceded territory; failure to prevent such behaviour resulted in expulsion. The attention of the military was focused single-mindedly upon the achievement of stability on the frontier. The heavy-handed methods they employed ensured that goal would be unattainable.

The idea of demanding restitution for colonial cattle losses seems to have caught D'Urban's attention. In a despatch to Somerset, dated 12 September, 1834, he declared that he hoped to be on the frontier in early October. He continued: "It will be a great smoother to my negotiations with the eastern chiefs if yours are effectual for some tolerable restitution beforehand, inasmuch as I shall start with them as men who will have placed themselves, for the moment, in a position to be favourably regarded."<sup>221</sup> In a memorandum to both Somerset and Campbell, also dated 12 September, 1834, D'Urban approved Somerset's proposed measures for inducing the Xhosa to make restitution for stolen cattle. Once again he put his trust in Somerset's experience on the frontier and he declared that the Commandant could pursue his plan to regain the cattle "according to his own judgement and discretion."<sup>222</sup> Somerset reinforced the Governor's faith in his ability in a despatch dated 5 December, 1834, shortly after Ensign Sparkes had been wounded. He stated:

Your Excellency need not be uneasy. I have every confidence in my own judgement, which is sometimes of advantage, and your kind approbation of my exertions gives me double confidence. I have therefore no doubt of doing all that is requisite to meet any difficulties that may present themselves. I shall neither run myself heedlessly into fresh difficulties nor want decision to contend with those that do present themselves.<sup>223</sup>

Within three weeks events were to prove Somerset wrong, and within six months D'Urban would ruefully revise his estimate of both Somerset and

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<sup>221</sup>Ibid., pp.149-50, D'Urban to Somerset, 12 September, 1834.

<sup>222</sup>Ibid., p.150, 'Memorandum for Colonel Somerset...', 12 September, 1834.

<sup>223</sup>Ibid., pp.157-8, Somerset to D'Urban, 5 December, 1834.

Campbell. In a letter to Bell dated 2 June, 1835, he declared:

It is impossible to conceive the imbecility of the Instruments I am obliged to act with [on the frontier], as well as the Head (to speak confidentially to you) of the Military and Civil Departments. In a word neither Campbell nor Somerset are equal to their duties and being on bad terms with each other, they counteract, as far as maybe, the little good which either might otherwise do. I do not say this to the world, for that would but make matters worse, but I desire that you should know of this millstone which hangs around the neck of my measures, in that most important District. <sup>224</sup>

On 17 October, D'Urban informed Somerset that it seemed as if the non-attendance of the chiefs of the Ndlambe clan at a conference called by Somerset on the Buffalo River looked "as if the stolen cattle were somewhere within their knowledge, and that they wished to avoid being pressed upon the point",<sup>225</sup> but advised the withholding of forcible measures until he himself was on the frontier. Also dated 17 October, 1834, was a memorandum in reply to Somerset's despatch of 10 October, 1834, which described the Xhosa as "very troublesome and clamorous about the Gaga and Chumie country" in the face of persisting drought. Somerset stated that he found it very difficult to keep them within the bounds and was obliged to use "the greatest forbearance to prevent bloodshed as they will not be kept out by fair means."<sup>226</sup>

In the memorandum D'Urban wrote that he saw no objection to Tyhali, Maqoma and Bhotomane making use of the country around the Gaga and Tyhumie rivers upon sufferance of good conduct "as well as upon their agreeing to certain conditions for their prolonged occupancy of it, which I shall judge necessary to propose on my approaching visit to the frontier."<sup>227</sup>

The despatch and memorandum of 17 October clearly illustrate several discernable and consistent themes in D'Urban's embryo frontier

<sup>224</sup>C.A., A519, Vol. 18, pp.97-105, D'Urban to Bell, 2 June, 1835. D'Urban's emphasis.

<sup>225</sup>P.P., 1837, XLIII, (503), p.153, D'Urban to Somerset, 17 October, 1834.

<sup>226</sup>Ibid., pp.152-3, Somerset to D'Urban, 10 October, 1834.

<sup>227</sup>Ibid., p.153, 'Memorandum for the Commandant of Caffraria...', 17 October, 1834.

policy after June, 1834. The first was the persisting determination to punish forcibly any non-compliance with demands for the return of stolen cattle. Another was the willingness to accommodate clans on good behaviour within the ceded territory, but again subject to the meeting of certain conditions, usually with regard to the prevention of cattle-rustling. Finally, D'Urban instructed Somerset to delay any final measures until he had arrived on the frontier to see for himself and implement the finer details of his projected system. Somerset's duty was thus to maintain the status quo, a task for which his long experience on the frontier qualified him.

But Somerset, anxious to recover stolen cattle before D'Urban's arrival, intensified his patrol activity.<sup>228</sup> A clash between a patrol, returning to the Colony with forty head of cattle seized as compensation for stolen horses,<sup>229</sup> and a group of enraged tribesmen, allegedly the followers of Nqeno, led to the wounding of the patrol leader, an Ensign Sparkes.

In a memorandum dated 12 December, D'Urban pointed out that Sparkes would have had ample justification for firing on his attackers, a contingency he considered covered by his memorandum of 6 June. He also considered that the fine Somerset had imposed upon Nqeno and his clan was insufficient and that the man responsible for wounding Sparkes should be apprehended and punished by the tribesmen themselves.<sup>230</sup> D'Urban continued:

If there be the least hesitation in acquiescing in this demand, Enno himself or the immediate chief of the delinquent's kraal should be seized, and held as a hostage, until the offender is produced and dealt with ...and Enno is to be distinctly made to understand that if all this be not done promptly, and if the aggressions of his tribe do not cease, insignificant as I hold him to be, yet I will not the less punish him by making war upon his tribe, by sending troops into his country, and destroying their kraals.

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<sup>228</sup>Walker, A History of Southern Africa (1972 impression), p.185.

<sup>229</sup>Theal, Vol. II, pp.87-8.

<sup>230</sup>There is a strong element of similarity here between D'Urban's desired measure and the punishment of a tribesman for the theft from a white. The sentence was carried out by Ngqika in about 1819 under the direction of the Colonial troops. See Peires, 'History of the Xhosa', p.186.

D'Urban fully approved of Somerset's expulsion of Nqeno's tribe from the ceded territory, and instructed Somerset that the expelled tribesmen were to be informed that should they cross into the Colony "immediate hostilities" would result against them, and that for any depredations within the colony, retaliation would be directed against their kraals.<sup>231</sup>

James Read wrote to Philip from the Kat River Settlement, and reported:

Somerset is now clearing the country from Willshire to the sea, all Enno's people and Congo's people. The old thing over again; for the act of one man punish hundreds, and now again just in the time of harvest while the corn is in the fields. Can this be Sir Benjamin's order? or would they dare to take such a step without orders?<sup>232</sup>

In effect, there was little difference between these measures and those of Wade, Cole and Lord Charles Somerset.

D'Urban's memorandum of 12 December was dated a week or so before the Xhosa invaded the Colony, and at a time when the Governor was still fully confident of being able to introduce a new frontier system after his tour. It is obvious that he was oblivious to the growing storm clouds in the trans-Keiskamma territories, and perhaps over-confident in the abilities of his subordinates on the frontier. The memorandum made it clear that D'Urban approved of Somerset's measures after the wounding of Sparkes, and after a review of the despatches between these two men, particularly in the period June to December, 1834, there seems little justification for the belief that upon reaching the devastated frontier in January, 1835, the reforming Governor threw his weight behind those who believed in force as an answer to the frontier problem. As a soldier, D'Urban was already aware of the military power at his command and it is clear that he was prepared to use that power to clear the way before implementing his new frontier system. What he failed to realise was the fact that the Colony's military strength was insufficient,

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<sup>231</sup>P.P., 1837, XLII, (503), p.159, 'Memorandum upon a Report from Colonel Somerset, Commandant of Caffraria, dated Camp upon the Keiskamma, near Somerset Mount, 5 December, 1834', 12 December, 1834.

<sup>232</sup>James Read to Dr Philip, undated, quoted in Macmillan, Bantu, Boer and Briton (1963 edit.), p.127.

particularly at a time of drought, to hold a society as virile as the Xhosa in awe while he was unavoidably delayed in Cape Town.

Somerset's clearing of the tribes from the ceded territory led to the slight wounding of a petty chief called Xoxo, and this was keenly felt by the Xhosa as "an insult to the memory of their ancestor Rarabe."<sup>233</sup> Before Christmas the Xhosa had erupted into the Colony, and within six weeks had laid waste to the Colony as far as Uitenhage in the west and the Winterberg in the north.<sup>234</sup> There was no long premeditated build-up of the tribes; even D'Urban noted, but for different reasons, "the extraordinary fact" that the concentration of the tribes, so numerous in numbers that they breached the frontier along a line of 90 miles in extent, should have been carried out without attracting the attention of missionaries and traders in Kaffraria, or the military, engaged in extensive patrols.<sup>235</sup>

In 1834 D'Urban had twice "caused communication to be made" to the Xhosa chiefs that a change in frontier policy would follow his visit. But instead of an amicable visit from the Governor, the solicitous visit of Philip, D'Urban's apparent emissary, was followed by Lieut.-Colonel Somerset's dragonnades and an energetic application of the old military policy of dispossession and reprisal. Somerset has often been criticised<sup>236</sup> for poor judgement in December, 1834. His action in that month probably accelerated the outbreak of war, and he may have been over-confident of his abilities, but the policy he implemented was quite clearly D'Urban's.

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<sup>233</sup>Cory, Vol. III, pp.57-9. Also Peires, 'History of the Xhosa', pp.211-3: "In traditional warfare, the life of a chief was regarded as sacrosanct."

<sup>234</sup>See P.P., 1836, XXXIX, (279), between pp.106-107, Enclosure 9 in D'Urban to Glenelg, 7 November, 1835: 'Sketch Map of part of the Colony of the Cape of Good Hope; showing the Extent of the Caffre Invasion of the Old Colony in 1834-5, and the Territory acquired by the operations of the latter years.'

<sup>235</sup>P.P., 1835, XXXIX, (252), pp.117-9, D'Urban to Spring Rice, 5 January, 1835.

<sup>236</sup>See, for example, C.A., A519, Vol. 2, pp.63-5, Bell to D'Urban, "I think I mentioned before you left, this, my belief that he [Somerset] had lost his head at the commencement of these troubles, without knowing much more of what followed than met the public eye; it has frequently occurred to me that if there was any truth, in my first surmise, its applicability continued."

CHAPTER SIX

THE D'URBAN SETTLEMENT OF 1835:

PROponents AND OPponents

Many books, articles and theses have debated the merits or otherwise of D'Urban's settlement of the eastern frontier in 1835. This interest has sprung primarily from the fact that D'Urban's was the first real attempt to solve the problem of the frontier by direct interaction between the Colony and black tribesmen. This chapter is a brief evaluation of that settlement, and of the reactions it provoked. It is also an attempt to draw together the threads of continuum which were apparent in D'Urban's year as Governor before the outbreak of war, and to highlight them as they apply to his whole governorship.

Shortly after the Apprenticed Labourers Ordinance had been passed by the Legislative Council in January, 1835, D'Urban left Cape Town for the frontier. He had already sent the officer next in rank to himself, Lieut.-Colonel Smith, to the frontier on 1 January, followed shortly afterwards on the 2nd by as many soldiers as the Cape Town garrison could spare. D'Urban only returned to Cape Town on 30 December, 1835,<sup>1</sup> and during this twelve month interval his attention was devoted to the problems of first the war, and then a frontier settlement.

Several important strands of continuum are apparent in D'Urban's handling of the war, effectively from late January to mid-August, 1835. Most notably, they were his careful preparation before going across to the offensive; his emphasis on economy and the persisting militarist character of his policy towards the Xhosa.

While Smith and Somerset scoured the Zuurveld and the Fish River bush,<sup>2</sup> and attempted to drive the tribesmen across the frontier, D'Urban slowly built up his forces with the cautious deliberation which paralleled his earlier marshalling of information from various parties to assist his deliberations for a frontier policy. The more impetuous

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<sup>1</sup>Theal, *op.cit.*, Vol. III, p.135.

<sup>2</sup>C.A., A519, Vol. 18, p.36, D'Urban to Bell, 30 January, 1835; pp.50-2, 20 February, 1835. For a detailed account of D'Urban's military campaign see Seton, 'Wesleyan Missions and the Sixth Frontier War', pp.220-320.

Smith criticised his superior's caution and indecision in his private letters to his wife,<sup>3</sup> but Smith was unsettled by anything short of continual movement and declared his inspiration came to him in flashes,<sup>4</sup> which was not the most acceptable approach to responsible colonial administration.

D'Urban's despatches to Spring Rice of 5 January, 1835,<sup>5</sup> and 21 January, 1835,<sup>6</sup> were concerned almost totally with details of military organisation, and a narrative of past events, with very little indication as to why war had broken out. Before he crossed the Keiskamma in March intent on a policy of pacification, D'Urban established two lines of defence for his rear areas and the Western Districts, conscious as he was of the greater mobility of his lightly-burdened opponents. The first line was centred on Grahamstown under Lieut.-Colonel England,<sup>7</sup> the second on Uitenhage under the veteran frontier functionary, Colonel Cuyler, who had been landdrost of Uitenhage from 1806-27.

D'Urban's conduct of the military campaign reflected his constant realisation of the need for economy.<sup>8</sup> In this he must have been influenced by the tone of Stanley's despatch of 31 December, 1833, which had ordered retrenchment. To fight the war D'Urban had to raise several

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<sup>3</sup>See, for example, Moore Smith (ed.), The Autobiography of Lieutenant-General Sir Harry Smith, p.721, Smith to his wife, 27 February, 1835: "Master is always floundering in the midst of information, whilst I like to take a look at the ground, march, and take possession." See also pp.723, 731, 734 and 735.

<sup>4</sup>Ibid., p.738, Smith to his wife, 17 April, 1835.

<sup>5</sup>P.P., 1835, XXXIX, (252), pp.117-9, D'Urban to Spring Rice, 5 January, 1835.

<sup>6</sup>Ibid., pp.131-3, D'Urban to Spring Rice, 21 January, 1835.

<sup>7</sup>P.P., 1836, XXXIX, (279), pp.24-6, 'Instructions for Colonel England, commanding the first Line of Frontier Defence...' 22 March, 1835.

<sup>8</sup>For example, in a letter to Somerset shortly after the outbreak of war D'Urban declared: "If you can procure some 50 horses for the Infantry, do so, of course at as economical a rate as you can, and instantly take means to mount and put into the ranks every officers' servant orderly or other dismounted men of the Cape Mounted Rifle Corps." C.A., A519, Vol. 20, pp.46-8, D'Urban to Somerset, 31 December, 1834. (My emphasis.)

Provisional Companies to augment the number of troops at his disposal but as he informed Spring Rice on 27 February, 1835, economies had been made

by placing in them officers, as far as it has been practicable, from the half-pay, or (as in one or two instances) taken from His Majesty's regiments serving here, where they could be spared, by which the half-pay in one instance, and the pay before accruing to them in the other, will be respectively saved the public.<sup>9</sup>

D'Urban managed further economies by keeping the Provisional Companies at the same level of attestation as the burgher forces - they received no pay, just rations. For a short campaign this was acceptable. The Governor realised that a prolonged war would wreak havoc with not only the colonial finances - as indeed it did - but also with the number of troops he could command in the field. He therefore wanted a short and decisive campaign. This was reflected in his despatch of 19 March, 1835, in which he informed the Secretary of State that with regard to his trans-Keiskamma campaign: "I have already disposed commissariat and ordnance stores for a month's consumption, and I must endeavour to finish my operations within that period, as far as it may be practicable."<sup>10</sup>

To secure his objective, D'Urban unleashed Smith who sought to destroy the resistance of an elusive enemy by burning crops and kraals and capturing any cattle found. It was this aspect of the campaign that annoyed Gleneig, who expressed indignation in his despatch of 26 December, 1835, and again in the despatch of 17 February, 1836, in which he requested "proofs that the safety of the King's subjects really demanded so fearful an exercise of the irresistible power of His Majesty's forces."<sup>11</sup>

There is reason to believe that the figures of tribesmen killed and cattle taken during the war were exaggerated by both D'Urban and Smith. During his Lieutenant-governorship, Stockenstrom made enquiries. He believed D'Urban's estimate of 4,000 warriors killed during the

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<sup>9</sup>P.P., 1836, XXXIX, (279), pp.3-10, D'Urban to Spring Rice, 27 February, 1835.

<sup>10</sup>P.P., 1836, XXXIX, (279), pp.10-14, D'Urban to the Secretary of State, 19 March, 1835.

<sup>11</sup>Ibid., pp.109-112, Gleneig to D'Urban, 17 February, 1836.

hostilities was highly inflated, and that in fact no more than half that number were casualties.<sup>12</sup>

D'Urban's figures, coupled with the strong language in the despatch of 19 June, 1835, in which he used phrases such as "wolves"<sup>13</sup> and "irreclaimable savages"<sup>14</sup> to describe the Xhosa and declared they were "to be expelled forever" from the land between the Keiskamma and Kei Rivers, gave D'Urban's views a severity which was more apparent than real. Yet through a mixture of conviction and stubbornness, it was a stance from which he refused to retreat in his despatch to Glenelg of 9 June, 1836.<sup>15</sup>

It is difficult to account for D'Urban's severity of language. It is possible he used hyperbole to cover indifferent success. Roxborough has suggested that the extremity of phraseology sprang from the Governor's humanity and compassion for the colonists on a devastated frontier.<sup>16</sup> Theal pictured D'Urban when he first arrived on the frontier as imbued with a liberal concept of the Xhosa as more to be pitied than blamed. But the Governor's experiences shortly after he arrived altered his perspective, and led him to throw his weight behind the 'just colonial cause'.<sup>17</sup> Macmillan similarly interpreted D'Urban's apparent change to a violent revulsion of his reforming zeal after he had had first hand experience of the devastation caused by the Xhosa on the frontier.<sup>18</sup>

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<sup>12</sup>Hutton (ed.), Autobiography of Sir Andries Stockenstrom, Vol. II, p.328.

<sup>13</sup>P.P., 1836, XXXIX, (279), pp.15-58, D'Urban to Aberdeen, 19 June, 1835.

<sup>14</sup>Ibid., p.41, Enclosure 12 (A) in D'Urban to Aberdeen, 19 June, 1835. Proclamation, 10 May, 1835. Signed G.H. Smith, 'by his Excellency's command'.

<sup>15</sup>P.P., 1837, XLIII, (503), pp.54-259, D'Urban to Glenelg, 9 June, 1836. See also pp.

<sup>16</sup>James Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers of the Cape of Good Hope, 1834-5', pp.73-4.

<sup>17</sup>Theal, Vol. II, pp. 86; 97.

<sup>18</sup>Macmillan, Bantu, Boer and Briton, (1963 edit.), p.127.

Roxborough has also suggested that D'Urban's exaggerated language arose from a desire to give his acts the appearance of more determination than in fact he possessed.<sup>19</sup> The answer to this question must necessarily remain of a speculative nature. But it is clear that the severity of D'Urban's language antagonised the humanitarians, both at the Cape and in England, and much of the future conflict between Governor and Secretary of State centred on the former's unguarded and perhaps emotional language at the time of his May policy of expulsion.

In planning the counter-offensive, D'Urban had been aware of the need for a short campaign. At some stage he conceived of the idea of ending the war through a timely defeat of the Gcaleka chief, Hintsa, who was also the nominal Paramount of the Western Xhosa against whom D'Urban was waging his campaign. He accordingly left Cox to bottle up Maqoma, Tyhali and their allies in the Amatolas, and moved across the Kei in April, 1835, to confront Hintsa, in the hope that once this chief had been subdued, he would in turn exert his 'influence' on the frontier chiefs to sue for peace. In military terms this move was strategically sound, for combined with various diplomatic moves<sup>20</sup> it effectively isolated the Xhosa. But the political reason D'Urban adduced - Hintsa's support for, and control of, the frontier tribes -

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<sup>19</sup>Roxborough, *op.cit.*, p.74.

<sup>20</sup>It is not clear whether D'Urban's only intention was to isolate Hintsa. Engels has seen in D'Urban's diplomatic moves a sign of his appreciation of the "value of a general South African settlement...as well as his inclination to use diplomacy as much as the sword." The basic premise for this view was that D'Urban realised the problem was greater than a mere regulation of colonial relations with the tribes immediately across the frontier line, but also extended to the tribes beyond. Friendship with these hinterland tribes could prevent a general combination against the Colony. In Engels' view, this realisation "marked the beginnings of the long struggle to find a *modus vivendi* with the tribes." Engels supported this belief by adducing D'Urban's use of Dr Andrew Smith's expedition into the interior to gauge the attitude of the chiefs he encountered there both to the Colony and to the formation of friendly alliances with it. To encourage amity, Smith took 12 ornamented cloaks and a quantity of medals and mirrors. Engels saw the initial fruition of this policy in the first formal treaty ever made between the colonial government and a native chief - with Waterboer in December, 1834. L.J. Engels, 'Sir Benjamin D'Urban's handling of the Frontier Problem, 1834-6', p.24 *passim*.

was not. The Xhosa Paramount had no formal control over Maqoma, Tyhali or the chieftains who had invaded the Colony.<sup>21</sup> In terms of strict justice, Hintsä was unoffending, and this was indicated by the extent to which D'Urban had to look to find causes to make his invasion beyond the Kei seem legitimate. One reason adduced was the murder in Hintsä's country of the trader, William Purcell, nine months previous during which no effective attempt had been made to secure an enquiry, and for which D'Urban now declared "no effectual steps [had] ever been taken for the punishment of the murderer, and for giving satisfaction in the matter to His Majesty the King of England..."<sup>22</sup> Another was the more recent murder of Armstrong, a messenger killed during a truce .

If he was unable to prove it, D'Urban nevertheless had become increasingly convinced that Hintsä was actively engaged against the Colony. In a despatch to Field Commandant van Wyk, commanding the burgher force in Somerset, the Winterberg and Koonap districts, D'Urban declared in February, 1835:

[Hintsä] is not to be depended upon...for any object of ours, unless circumstances should lead him to consider it his Interest to do what we wish, upon which question, perhaps, he has not yet made up his mind, and while he is doing so, he will act doubly, vizt., he will continue to countenance as he has already done, to the Chiefs who are in open hostility to us without committing himself by any decided or open act of hostility to the colony.<sup>23</sup>

A month later he declared to Capt. Armstrong: "There can be no doubt of the enmity of Hintsä."<sup>24</sup>

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<sup>21</sup>See pp.15-16; 125-6.

<sup>22</sup>See P.P., 1836, XXXIX, (279), pp.33-5, 'His Britannic Majesty's Governor of the Colony of the Cape of Good Hope, to Hintza, chief of the country on the left bank of the Middle and Lower Kye River, and the acknowledged principal chief and arbitrator of all the tribes of Caffreland westward of that river, to the frontier of the colony', 29 April, 1835.

<sup>23</sup>C.A., A519, Vol. 21, pp.16-19, D'Urban to Field Commandant van Wyk, 15 February, 1835.

<sup>24</sup>C.A., A519, Vol. 21, p.39, D'Urban to Capt. Armstrong, 15 March, 1835.

With the intention of proceeding against Hintsa, D'Urban set about to isolate the Paramount by a series of diplomatic arrangements to his rear and flank. The Rev. W.J. Davis, missionary to the Thembu chief, Vadana, had informed the Colonial government of that chief's friendly intentions in a letter dated 7 February, 1835. In his reply to Davis dated 21 February, D'Urban requested that Vadana be informed of the war, the Governor's intention of attacking all the tribes who joined the enemy, and his expectations of mutual amity with the Thembu.<sup>25</sup> Through the same medium he asked the Mpondo chief, Faku, to show his friendship with the colony by co-operating with the Colonial government against the Xhosa if necessary. Vadana's willingness to join the Colony against the Xhosa was later confirmed by Capt. Warden shortly afterwards when he was in the area to escort traders and missionaries to the safety of the Colony.<sup>26</sup>

Hintsa provided little resistance, and on 29 April, 1835, conceded to D'Urban's demands for the restoration of 50,000 cattle, 1,000 horses and the payment of reparations for the murders of Purcell and Armstrong, together with the execution of their murderers. Surrounded by the might of a colonial army, Hintsa also agreed, as "the acknowledged chief of Western Caffreland", that he would

lay his imperative commands, and cause them to be obeyed, upon the chiefs of the tribes Tyalie, Macomo, Enno, Bothman, Dushanie, 'TSlambie, Umhala, and their dependants, instantly to cease hostilities and to send in, and give up to me, or to one of the divisions of my forces, all the fire-arms which they may possess.<sup>27</sup>

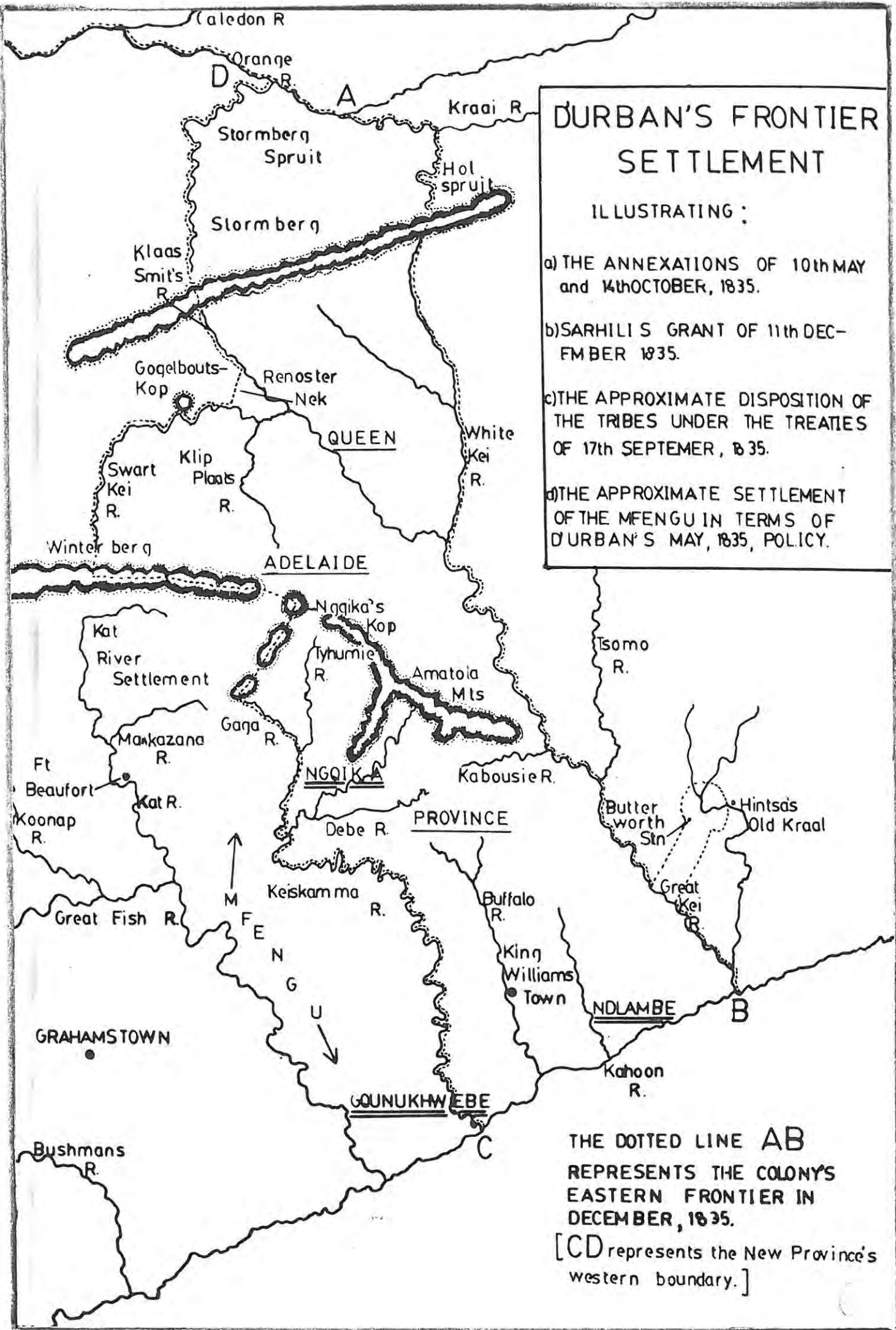
To ensure that this be done, D'Urban demanded the security of two hostages. Hintsa's conduct during this period, and his subsequent death on 12 May, 1835, while leading Smith and a column to round up the cattle demanded in the arrangement of 29 April, 1835, has aroused much

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<sup>25</sup>D'Urban to the Rev. W.J. Davis, 21 February, 1835, quoted in Theal, Documents relating to the Kaffir War of 1835, pp.71-2.

<sup>26</sup>Ibid., pp.135-6, Capt. H.D. Warden to Colonel H.G. Smith, 26 April, 1835.

<sup>27</sup>P.P., 1836, XXXIX, (279), pp.33-5, 'His Britannic Majesty's Governor...to Hintza...acknowledged principal chief and arbitrator of all the tribes of Caffreland...', 29 April, 1835.



# DURBAN'S FRONTIER SETTLEMENT

ILLUSTRATING :

- a) THE ANNEXATIONS OF 10th MAY and 14th OCTOBER, 1835.
- b) SARHILI'S GRANT OF 11th DECEMBER 1835.
- c) THE APPROXIMATE DISPOSITION OF THE TRIBES UNDER THE TREATIES OF 17th SEPTEMBER, 1835.
- d) THE APPROXIMATE SETTLEMENT OF THE MFENGU IN TERMS OF DURBAN'S MAY, 1835, POLICY.

THE DOTTED LINE AB REPRESENTS THE COLONY'S EASTERN FRONTIER IN DECEMBER, 1835.

[CD represents the New Province's western boundary.]

controversy.<sup>28</sup> While the facts of the incident remain obscure and uncertain, the impact of Hints'a's death was clear. As Spicer observed: "for the Paramount Chief to be run down, killed and mutilated, and that by 'white commoners', was an enormity for which many Gcaleka never forgave the whites."<sup>29</sup> The event also coloured the attitude of Hints'a's great son and heir, Sarhili, towards the Colony, and he was thenceforth profoundly distrustful of its motives.

Although Hints'a's death was later significant for D'Urban's governorship,<sup>30</sup> it had little immediate impact on his arrangements, and the obligations which had been imposed upon the dead Paramount were transferred to his heir by an agreement dated 19 May. According to Theal,<sup>31</sup> Sarhili restored 3,000 of the 50,000 cattle earlier demanded by D'Urban, but in lieu of the shortfall, the Colonial government accepted the cession, on 11 December, 1835, of a strip of land five miles on each side of the high road from the Kei drift past the missionary station at Butterworth to the Geuwa (Gona) River beyond, and with a fifteen mile radius around that station.<sup>32</sup>

Two days before Hints'a's death on 12 May, 1835, on the banks of the Kei, D'Urban had proclaimed that he had "defeated, chastised and dispersed" Maqoma, Tyhali and their allies, conquered their country and forced Hints'a to accept terms of peace. To protect the Colony "against such unprovoked aggressions, which can only be done by removing these treacherous and irreclaimable savages to a safer distance", the offending chiefs and their tribes were to be "forever expelled" beyond the Kei River, which was to be the new frontier line.<sup>33</sup> In his

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<sup>28</sup>See, for example, J.G. Pretorius, 'The British Humanitarians and the Cape Eastern Frontier, 1834-6', pp.195-285; Cory, III, pp.38-55; Macmillan, *Bantu, Boer and Briton* (1963), pp.132-3; C.J. Uys, 'Die Moord op Hints'a', *Die Huisgenoot*, February-March, 1943. Also pp.

<sup>29</sup>M.W. Spicer, 'The War of Ngcayecibi, 1877-78', p.6. Also personal communication with A. Blaauw, Grahamstown, 31 March, 1980.

<sup>30</sup>See pp.231-5.

<sup>31</sup>Theal, Vol. II, pp.133-4.

<sup>32</sup>See Maps 6 and 7.

<sup>33</sup>P.P., 1836, XXXIX, (279), p.41, Proclamation, 10 May, 1835.

'Memorandum for the Information and Guidance of Major Cox, as to the general Basis of Terms which he is authorized to hold forth to the Caffre Tribes suing for Peace',<sup>34</sup> dated 12 May, 1835, D'Urban clarified the situation and explained that he only meant to expel those chiefs and their followers who had invaded the Colony. In the new conquered territory, which D'Urban called Queen Adelaide Province in honour of his sovereign's consort, he intended to settle in carefully defined locations those clans who had remained at peace with the Colony, together with those members of the aggressor clans who had disowned their chiefs, and the Mfengu whom he believed he had released from the slavery of Hintsa.<sup>35</sup> The remainder of the Province was to be made available for colonial occupation, partly as compensation for war losses.

Lieut.-Colonel Somerset was ordered to escort some 17,000 Mfengu together with 22,000 head of cattle - much of it Xhosa, a fact which created considerable ill-feeling later - to resettlement areas between the Fish and Keiskamma Rivers. Commissioners were appointed to settle the Mfengu in the centre of the old ceded territory on a block of land with its northern boundary running along a line between the confluence of the Tyhumie and Keiskamma Rivers in the east, and the confluence of the Kat and Fish Rivers in the west. In the south the boundary was a line between the Chusie (Igqushwa) River which flowed into the Fish in the west and the Gwanga River, falling into the Keiskamma in the east. The western and eastern borders were the Keiskamma and Fish Rivers respectively.<sup>36</sup> Some of the Mfengu were also settled in the Tyhumie valley. In effect, the Mfengu occupied the area south of Fort Willshire, and between the Khoikhoi settlements on the Kat River,

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<sup>34</sup>Ibid., p.47, 'Memorandum for the Information and Guidance of Major Cox...', 12 May, 1835.

<sup>35</sup>See Map 6.

<sup>36</sup>C.A., A519, Vol. 18, pp.116-9, 'Instructions from Governor Sir Benjamin D'Urban to the Rev. John Ayliff, Wesleyan missionary, John Bowker, Esq., J.P., Capt. Hallifax and Lieut. Moultrie of His Majesty's 75th Regiment, Commissioners for the management, establishment and location of the Fingo Nation in the Colony of the Cape of Good Hope, appointed by the Governor, 12 July, 1835.'

and the neutral Gqhunukhwebe chiefs in the south. The buffer that Cole and Stockenstrom had envisaged in 1829 in the area thus seems to have formed an integral part of D'Urban's May policy. The idea of a buffer of clans and groups friendly to the Colonial government planted in the ceded territory had already been envisaged by D'Urban shortly before the war, and its first hesitant principles had been outlined by the Governor in his despatch of 15 August, 1834, to Somerset on the frontier.<sup>37</sup>

In his despatch of 19 June, 1835, to Aberdeen D'Urban declared his intention of settling the loyal clans on allocated areas in the new Province, "preserving so long as they shall desire it, their own internal manners and customs for the regulation of the domestic concerns of their tribes, in so far as they do not essentially contravene the general English laws under which they will live and be protected." He continued by stating he had "studiously left open the outlet of the Kye [sic] by which such of the Caffres as know they have placed themselves without the pale of reception and suffrance in the new province of the colony, also know that they have that alternative of which they may readily avail themselves if they shall see fit to do so."<sup>38</sup>

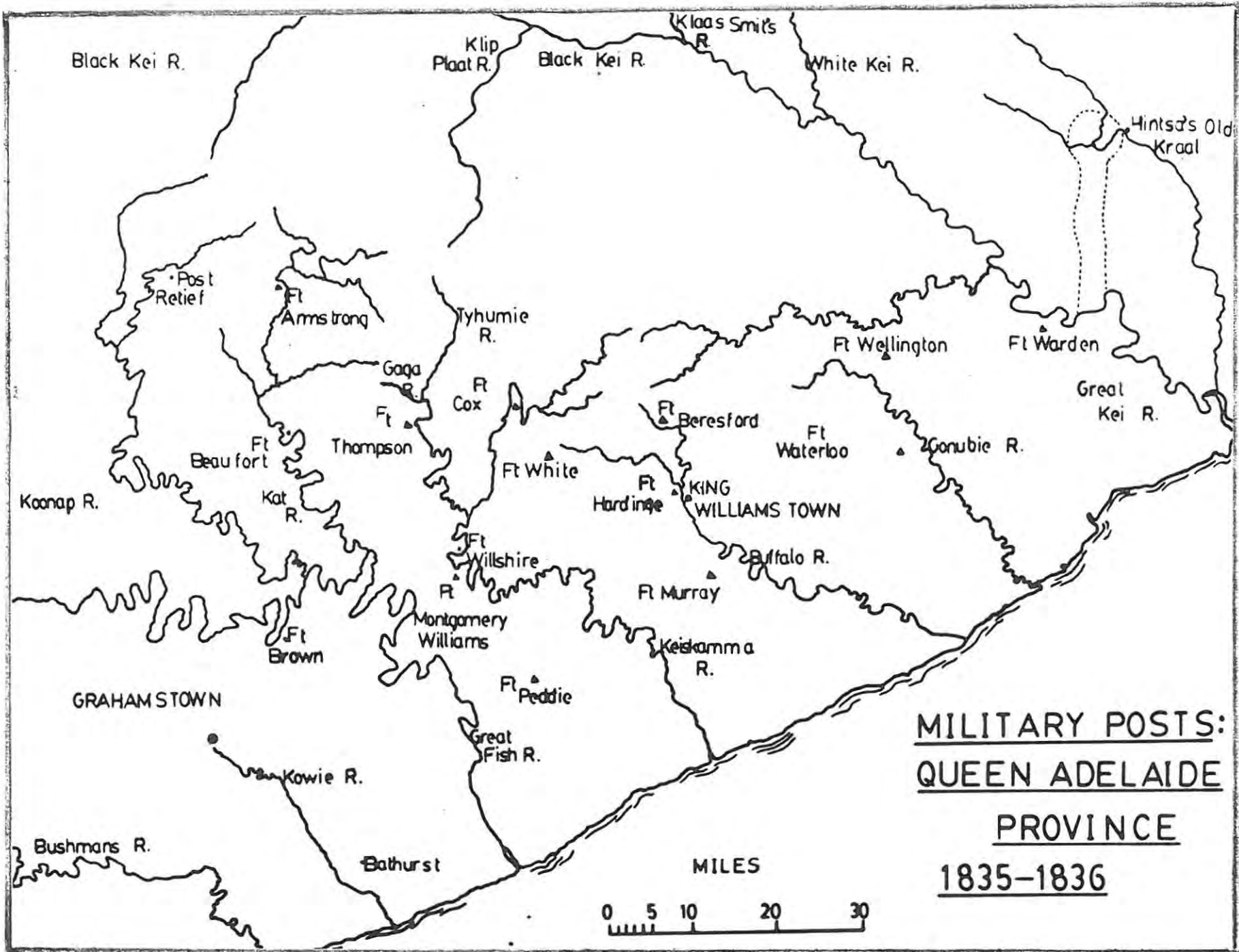
D'Urban regarded the 'freeing' of the Mfengu as a major coup which he hoped would palliate the fact that he had disobeyed his Instructions and angered the humanitarians at the Cape, and through them their allies in England, by the harsh dispossession which was intended by the May Proclamation. In a letter to Sir J.W. Gordon, an old Peninsula comrade who had risen to be Quarter-master General to the Army, D'Urban described how he had 'rescued' the Mfengu "from the most wretched state of slavery that can be imagined."<sup>39</sup> In his despatch to Lord Aberdeen of 19 June, 1835, he similarly declared:

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<sup>37</sup>See p.181.

<sup>38</sup>P.P., 1836, XXXIX, (279), p.21, D'Urban to Aberdeen, 19 June, 1835.

<sup>39</sup>C.A., A519, Vol. 18, pp.110-11, D'Urban to Sir J.W. Gordon, 26 June, 1835. For discussion on D'Urban's misunderstanding of the relationship between the Mfengu and Xhosa, see pp.126-7.



MILITARY POSTS:  
QUEEN ADELAIDE  
PROVINCE  
1835-1836

There can be no question, I think, that this measure is in the true spirit of that which the mother country has recently pursued upon so immense scale; it is in itself of unspeakable mercy to this liberated people, since in no one instance did that extensive emancipation rescue any race from a life of misery bearing any comparison to the wretched state of slavery and oppression under which this nation groaned... 40

In his letter to Gordon, D'Urban also expressed his fear that the 'Buxton Party' would attack his May policy. "This is already apparent from the tone taken up by the colonial newspaper here which is guided by Dr Philip their organ..."<sup>41</sup> D'Urban obviously saw Buxton and the humanitarians in the British Parliament as the greatest and most powerful opponents of his measures, and one whose powers had been ably demonstrated by the passage of slave emancipation.

One of the difficulties associated with an understanding of D'Urban's settlement of 1835 is that experienced in the reconciliation his obvious awareness of the limitations imposed upon him by his Instructions and the policy of retrenchment, with the fact that his annexation of the area between the Keiskamma and Kei Rivers added 7,000 square miles<sup>42</sup> to the Colony, and after the relaxation of his policy of extermination<sup>43</sup> in September, a tribal population of 72,700.<sup>44</sup> The defence and administration of so large an area and of so great a population would obviously prove expensive.

D'Urban, the military man, placed colonial security as his first consideration, and matters of finance and justice would necessarily

<sup>40</sup>D'Urban to Aberdeen, 19 June, 1835, op.cit., p.16.

<sup>41</sup>D'Urban to Sir J.W. Gordon, 26 June, 1835, op.cit.

<sup>42</sup>P.P., 1836, XXXIX, (279), p.40: 'Notice, Head Quarters, Camp on the Impotshana...', 15 May, 1835.

<sup>43</sup>D'Urban used the term in its proper sense meaning "to root out (species, race, sect, opinion)" rather than in its more modern sense, meaning to destroy physically and literally. The Concise Oxford Dictionary.

<sup>44</sup>The 1835 census gave the breakdown of the tribes "in round numbers" in Queen Adelaide Province as follows: "Congo 7,500; Gaika 56,000; T'Slambie 9,200." P.P., 1837, XLIII, (503), p.9: Enclosure 2 in D'Urban to Glenelg, 6 February, 1836.

be subordinated to that consideration. In his letter to Gordon dated 26 June, 1835, he stated that

Since no other measure could, by possibility, have promised security to the Eastern Frontier and so deeply was this want of protection impressed upon the minds of all the farmers, that I may sincerely affirm if the old border line had continued, all those of Albany and almost all those of Somerset would have abandoned their farms, and these provinces would have been deserted. <sup>45</sup>

With simple sincerity he declared to Bell:

It was imperative upon me as a faithful servant of the King and as a conscientious Governor charged with the interests of such a colony, not to let slip this opportunity of doing, when it could be done without injustice that which Policy and the security and future prosperity of the colony alike demanded. I know that I am right, in my conscience, therefore, and whether I be praised or blamed for it (although I will not use the affection of saying I shall not prefer the former) I trust is sufficiently indifferent to me. <sup>46</sup>

Again in his despatch to Aberdeen on 19 June, 1835, D'Urban described his annexation as "the only measure that could promise to repay the expenses of the war<sup>47</sup> ...and place a defensive barrier between the heart of the colony and the savage tribes of central Africa, provide security for the future, and a just indemnification for the past."<sup>48</sup>

For D'Urban colonial security was thus an overriding principle, and he remained loyal to it throughout the remainder of his governorship. But by August his expectations of a quick war had not been met. The Xhosa had shunned direct confrontation. Instead, they had retired to the fortresses of the Amatola mountains - from where they proved

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<sup>45</sup>D'Urban to Sir J.W. Gordon, 26 June, 1835, op.cit.

<sup>46</sup>C.A., A519, Vol. 18, pp.94-6, D'Urban to Bell, 18 May, 1835. Of course, after the reversal of his settlement, D'Urban could never feel indifferent to the issue and devoted much of his remaining life to the vindication of his policy.

<sup>47</sup>Ibid. D'Urban probably meant this in terms of the exploitation of the new Province's agricultural potential. In the same letter to Bell, he described it as "a most lovely province, fertile, well-watered, sufficiently wooded for use and appearance, without affording hiding holes for the savage..."

<sup>48</sup>P.P., 1836, XXXIX, (279), p.19, D'Urban to Aberdeen, 19 June, 1835.

impossible to dislodge - and continued to threaten the Colony and D'Urban's lines of communication. From mid-May to the first week in June, D'Urban was obliged progressively to stand down his burgher forces, and allow them to return to their farms in time for the planting season.<sup>49</sup>

As the mounted and frontier-wise burghers provided him with his most effective force against the highly mobile Xhosa, the campaign generally ground to a halt, and D'Urban could do little more than hold his posts of occupation and maintain his lines of communication.<sup>50</sup> This situation also meant that D'Urban had now to pay the Khoikhoi levies in the Provisional Companies as their presence was required, and some inducement had to be offered for them to stay. Hintsa's successor, Sarhili, had predictably failed to exert sufficient pressure to end the war.

Accordingly, under the influence of the Wesleyans, and in order to achieve colonial security, the Governor was prepared to abandon his unworkable May policy, and allow all the tribes, including those who had attacked the Colony, to remain in Queen Adelaide.

In a private letter to Smith dated 21 August, 1835, D'Urban outlined a plan to establish all the Xhosa on locations in close proximity to white farms instead of expelling them. He concluded: "I have come to the conclusion, trampling underfoot my preconceived opinions and sacrificing also some prejudices...to open a door [and make peace without driving the Xhosa beyond the Kei]."<sup>51</sup> Again on 28 August, 1835, he wrote to Smith and declared, "if we do not obtain security for the future, all that we have been doing is blood and treasure thrown away."<sup>52</sup>

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<sup>49</sup>P.P., 1836, XXXIX, (279), pp.39-40, General Orders, 23 May, 1835. Also pp.53-4, Notice, 18 June, 1835.

<sup>50</sup>Ibid., pp.75-81, D'Urban to Hay, 4 September, 1835.

<sup>51</sup>D'Urban to Smith, 21 August, 1835, quoted in Macmillan, op.cit., pp.154-5.

<sup>52</sup>D'Urban to Smith, 28 August, 1835, quoted in Theal, Documents relating to the Kaffir War of 1835, p.354.

The May policy was consequently replaced by two treaties, completed at Fort Willshire on 17 September, 1835, one with the "Caffre family of Gaika and its Connexions and Dependents",<sup>53</sup> and the other with the "Caffre Chiefs of the Tribe of T'Slambie, Umhala, Tsyolo, and Gazelli, and their Families."<sup>54</sup> The preamble to the official Notice informing the colonists of the proceedings read:

Peace has been concluded by the Governor and Commander-in-Chief, in the name of His Majesty, with all the Caffre tribes lately in arms against the colony...who have thereupon, at their own earnest supplication, become subjects of His Majesty, amenable to, and under the protection of, the colonial laws and government; and who are located and established within the colony, in the province of Queen Adelaide...<sup>55</sup>

This was a radical departure not only from his intention to expel the aggressor clans, but also from previous colonial precedent. For the first time at the Cape a still virile tribal society was to be brought under the direct authority of the Colonial government and its people were to have the legal status of British subjects. Lieut.-Colonel Smith was left at the new seat of government at King William's Town to administer the Province, which he did by means of a combination of martial and 'Smith's' law. Smith demanded unquestioning obedience to his word and the suppression of witchcraft with its attendant rituals of 'smelling out' disloyalty, and the 'eating up' of the guilty.<sup>56</sup> The eccentricity of Smith's character and his determination soon meant that his authority was such that he could boast of a system of brass-topped sticks to summon offenders: the stick would be taken by a messenger to the offender who would then have to return it personally to Smith.

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<sup>53</sup>p.p., 1836, XXXIX, (279), pp.95-6, 'Articles of a Treaty of Peace...', 17 September, 1835.

<sup>54</sup>Ibid., pp.97-8, 'Articles of a Treaty of Peace...', 17 September, 1835.

<sup>55</sup>Ibid., p.95, Notice, dated Grahamstown, 23 September, 1835.

<sup>56</sup>See Cory, III, pp.233-4; also Peires, 'A History of the Xhosa', pp.78-81; 123-5.

In a confidential memorandum to his second-in-command dated 30 September, 1835, D'Urban declared that the long-term objectives of his September settlement were to dissipate and divide the power of the chiefs and to reduce them "to the more wholesome position of subordinate magistrates (or field cornets) acting under prescribed rules and limits." To achieve these goals it was imperative that at the beginning the chiefs did not realise "the future consequences of the process until by its advancing force, when they do at length discover all its influence, they shall no longer have any power to be effectively restive." He continued:

Hence it is important to go on gently, leaving the machine to its own gradual workings, and not affrighting them by denunciations against crimes, or the visitations they are to incur under the laws of their new sovereign, but letting things for the present proceed smoothly, and in due time, and when all is ready, the laws will assert their own sway, and be efficiently felt, when they can no longer be resisted or evaded. <sup>57</sup>

D'Urban's settlement of September, 1835, was undoubtedly an imaginative concept in that it attempted to establish a measure of immediate control in place of the more traditional policy of distant isolation. But it clearly lacked the financial resources and a comprehensive understanding of the nature of tribal society to make it work. Smith saw the Xhosa as irresponsible children, and treated them as such, and both he and D'Urban mistakenly believed that the chiefs could be isolated from their followers, their authority slowly eroded, and a new code of ethics imposed by a stern and paternal authority backed by military power. D'Urban's annexation of Queen Adelaide was clearly contrary to his Instructions, and it seems certain that he would not have entertained such a risk if he did not think there was a chance that the British government would endorse his policy. It was not unknown for governors to ignore their instructions and, at their own discretion, implement ordinances, proclamations and regulations in their colonies before they had received the Crown's consent. The underlying logic was that by the time the news of their disobedience had been transmitted to England, and the problem considered, sufficient time would have elapsed

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<sup>57</sup> P.P., 1836, XXXIX, (279), p.103, Confidential memorandum, D'Urban to Smith, 30 September, 1835.

to convince the Colonial Office that continuation would be preferable to disallowance with its attendant perils of confusion and dislocation.

For example, in New South Wales, since 1806 governors had failed to send home ordinances for Colonial Office approval, and when this was discovered in 1823 most of those laws could neither be repealed nor ignored, and had to be left in operation. In the West Indian legislatures a favourite ploy was to pass annual laws which had expired or nearly expired by the time they reached the Colonial Office. Stephen often had to report, as he did in 1830 on an act in Sierra Leone: "This Act should not have been passed, but since it has been passed it ought not to be disallowed because this would cause irremediable distress."<sup>58</sup> In his analysis of colonial policy during James Stephen's tenure in the Colonial Office, Knaplund believed

Violations of instructions sometimes were allowed to pass unnoticed; on other occasions they supplied a basis for refusals to sanction bills or for disallowing acts considered objectionable for reasons which it might be unwise to bring out in the open. Thus elements of caprice and uncertainty entered the system of colonial administration, nor would Stephen eliminate them altogether. Though generally he acted on the basis of principles, he never ruled out expediency as a guide worth while in determining action on colonial questions.<sup>59</sup>

It is interesting to note that in his 26 December, 1835, despatch, Glenelg declared that although British sovereignty of the country between the Fish and Keiskamma Rivers did not rest upon a solid foundation of international law and justice, "the relinquishment of that dominion is surrounded by difficulties so many and inextricable as to entirely forbid such a surrender...The restitution of invaded rights in this, as in many other cases, would involve injuries more formidable than it could remedy."<sup>60</sup>

At the time of D'Urban's annexation of Queen Adelaide Province

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<sup>58</sup>Report by Stephen, 25 February, 1830, quoted by Paul Knaplund, *James Stephen and the British Colonial System, 1813-47*, pp.63-4.

<sup>59</sup>*Ibid.*, p.64.

<sup>60</sup>P.P., 1836, XXXIX, (279), p.68, Glenelg to D'Urban, 26 December, 1835.

in May he was unaware that Sir Robert Peel's Tory ministry<sup>61</sup> had fallen during the previous month, and that a Whig ministry was in power,<sup>62</sup> with Charles Grant<sup>63</sup> at the helm in the Colonial Office. D'Urban's despatch of 19 June, 1835, which informed the Colonial Office of his May policy was addressed to the Tory minister, Lord Aberdeen, and, as a man with powerful Tory connections in the army, and of undoubted Tory persuasion, it is quite possible D'Urban was gambling that a Tory ministry with a Tory Secretary of State would give his policy of annexation sufficient support to neutralise the outcry from 'the Saints' and the antipathy of Stephen, or at least prove unwilling to disallow it. Peel, after all, was notoriously indifferent to colonial affairs.<sup>64</sup> In the D'Urban collection in the Cape Archives an undated letter from Murray<sup>65</sup> would seem to indicate that others shared this belief. He informed D'Urban: "Had the Caffre business happened to have been decided on by a Peel-Wellington ministry, how different they would have been."<sup>66</sup> It also seems that Philip and his supporters ascribed D'Urban's frontier policy in 1835 to the advent of the Peel Ministry. Philip declared: "The news of [Peel's election] was conveyed to [D'Urban] before any change in his purpose was avowed...Whatever the Tory ministers may do for England, it is indicated pretty clearly what he expected from the effects of their administration in the colonies."<sup>67</sup> As has earlier been indicated,<sup>68</sup> Philip, together with many others,

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<sup>61</sup>Sir Robert Peel's first Ministry, December, 1834 - April, 1835.

<sup>62</sup>Lord Melbourne's second Ministry, April, 1835 - September, 1841.

<sup>63</sup>Created Lord Glenelg, May, 1835.

<sup>64</sup>W.P. Morrell, British Colonial Policy in the Age of Peel and Russell, p.32.

<sup>65</sup>Presumably Sir George Murray (1772-1846), Quartermaster-General to the forces in Spain and Portugal, 1809-11, and later Secretary of State for War and the Colonies, May, 1828 - November, 1830. See D.N.B., Vol. XXXIX, pp.363-4.

<sup>66</sup>C.A., A519, Vol. 9, pp.306-8, Murray to D'Urban, undated.

<sup>67</sup>Quoted in Macmillan, Bantu, Boer and Briton (1963 edit.), pp.144-5.

<sup>68</sup>See p.152.

failed to discern the inherent connection between D'Urban's frontier initiatives of 1834 and 1835. Yet the fact that he ascribed D'Urban's 'change' to the advent of a Tory Ministry is also significant in terms of the actual annexation. Clearly Philip, as D'Urban must have reasoned, believed the action had a greater chance of receiving approval from a Tory rather than from a Whig Ministry.

Isolated on the frontier, D'Urban was dependent upon Bell for information about political affairs in Britain. On 22 January, 1835, Bell clearly informed the Governor: "...you will perceive how completely the Whigs have been ousted from the Government. The latest paper is a Standard of 17 November which leaves no doubt of the fact."<sup>69</sup>

On 13 March, Bell sent D'Urban a summary of the despatches he had received that day from London. One, dated 29 November, 1834, officially notified D'Urban of the dissolution of Lord Melbourne's administration and the appointment of the Duke of Wellington ad interim as the First Lord of the Treasury. The Governor was accordingly instructed until further notice to address his despatches to the 'Secretary of State of the Colonial Department'. Bell commented: "From the last English Papers it does not appear that the New Administration is entirely arranged yet, but Sir George Murray's return to the Colonial Department seems certain instead of going to the Ordnance..."<sup>70</sup>

By June, 1835, D'Urban was obviously aware that Aberdeen headed the Colonial Office, but a letter from Bell dated 25 June and received by D'Urban on 2 July, forced upon him the realisation that if his hope for his annexation rested upon the support of a Tory Ministry, that hope had been dashed by the fall of Peel's ministry in April, 1835. Bell wrote:

Yesterday...brought the very unwelcome intelligence of Ministers' resignation...One thing is consolatory: the present House of Commons is decidedly better than the former one, and the Whig Radicals will not be able to carry through the destructive measures with such large majorities as they commanded last year...I have just finished the perusal of your Excellency's dispatch

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<sup>69</sup>C.A., A519, Vol. I, pp.70-6, Bell to D'Urban, 22 January, 1835.

<sup>70</sup>C.A., A519, Vol. I, pp.115-8, Bell to D'Urban, 13 March, 1835.

[of 19 June, 1835] after a careful dissection of all the enclosures. If Joseph Hume<sup>71</sup> is at the helm in Downing Street by the time it reaches, the game is up and the colony ruined...If ever there was a story plainly told, an inference fairly drawn...I think they are contained in the dispatch. But such is the cant of liberalism and the illiberality of canters, that I grieve to think all that has been done may be overset before the shrine of the Great Idol of the day - Humbug!<sup>72</sup>

D'Urban sent his despatch of 19 June, 1835, to the Colonial Office in the care of one of his most trusted aide-de-camps, Capt. George de la Poer Beresford. Beresford was instructed to explain the necessity for, and the advantages of, the Governor's May policy. D'Urban also sent Major Cloete<sup>73</sup> on a similar mission. Cloete arrived in England in August, a month before Beresford did. Beresford, the scion of an influential English family, had been sent to the Cape in disgrace by his family and D'Urban's assurances of his good conduct while there assisted in the young man's reconciliation with his father. There can be no doubt of Beresford's gratitude to his mentor,<sup>74</sup> and he exhibited his loyalty by his staunch support for D'Urban's annexation. He saw<sup>75</sup> Glenelg on at least three occasions, and also interviewed Sir George Grey, the Parliamentary Undersecretary to the Colonial Office. Beresford also

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<sup>71</sup>Joseph Hume (1777-1855), a British radical politician and leader of the radical party in Parliament, Hume earnestly advocated retrenchment, free trade, Catholic emancipation, and parliamentary reform, and also the abolition of flogging in the army and pressing for the navy. See D.N.B., Vol. XXVIII, pp.230-1.

<sup>72</sup>C.A., A519, Vol. 2, pp.92-5, Bell to D'Urban, 25 June, 1835.

<sup>73</sup>Josias Cloete (1794-1886), of a prominent Cape Dutch family, made a career in the British army, and ended his life with the rank of Major General and the K.C.B. D.S.A.B., Vol. I, pp.170-1. D'Urban's letter of introduction declared Cloete to be "especially well acquainted with all that relates to the recent measure of extension of territory ...and can point out...its vital necessity not only to the future prosperity but to the safety even of the colony." Quoted by Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', p.137.

<sup>74</sup>See, for example, C.A., A519, Vol. 2, pp.43-6, Beresford to D'Urban, 31 May, 1835: "...on leaving you, my dear General, I fear I inadequately express to you my feelings on that head, but believe me, I most deeply feel your kindness..."

<sup>75</sup>By his own admission: C.A., A519, Vol. 2, pp.231-40, 12 September, 1835; Vol. 2, pp.265-71, 22 September; Vol. 3, pp.220-5, 29 December. All to D'Urban.

obtained an interview with the King, who asked for exact details of D'Urban's policy, and indicated his approval.

Initially, Beresford wrote encouraging reports to D'Urban, declaring:

They are all evidently pleased with your able arrangements...The only little stumbling block seems the question of abstract justice as to retaining the conquered territory. However, King, Secretaries and all call it the New Province and as far as I can judge they will retain it...At the Horse Guards they say 'it has been right well done' and I am told on good authority that the Duke of Wellington said: 'Leave D'Urban alone. It is in good hands. He will soon put that all to rights for you.' I tell you this merely to show you that your old Chief appreciates you. <sup>76</sup>

Grey and Glenelg were apparently non-committal. But in his letter of 29 December, 1835, he struck a warning note which D'Urban failed to heed. He wrote: "From what I see, I conceive before anything is finally settled they will receive further advices from you."<sup>77</sup>

The question of abstract justice was to be more than a small stumbling block, and proved of major importance to Glenelg and the members of the Aborigines Committee.

Beresford also gave evidence before the Aborigines Committee on two occasions - 11 and 14 March, 1836. His letter of 17 March, 1836, must have confirmed some of D'Urban's worst fears:

Dr Philip has denied to Mr Buxton that he was employed by your Excellency as a medium of communication with the Chiefs in an official and ostensible manner, and says that he gave you no reason to suppose that the Chiefs were satisfied at the new arrangements. I referred to your despatch of January, 1835, and stated at once that Dr Philip had deceived you and that you had directly employed him...I would ask you to send to the Colonial Office a strong refutation of Dr Philip's rhapsodies. God help us all; we are in the hands of a Government which is roughriden by the Saints on one hand and by the demagoguy [sic] on the other. <sup>78</sup>

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<sup>76</sup> Beresford to D'Urban, 12 September, 1835, op.cit. Beresford's emphasis.

<sup>77</sup> Beresford to D'Urban, 29 December, 1835, op.cit.

<sup>78</sup> C.A., A519, Vol. 4, pp.102-9, Beresford to D'Urban, 17 March, 1836.

But once again D'Urban delayed.

Cloete acted independently of Beresford. He had interviews with Sir Herbert Taylor, private secretary to William IV, Fitzroy Somerset, secretary to Lord Hill, General Commanding-in-Chief of the British Army, Hay, the Permanent Undersecretary for the Colonies, and Glenelg. One of the greatest weaknesses of the campaign waged by the champions of D'Urban's frontier settlement was the fact that they acted individually, with little or no cohesion or contact. The considerable body of ex-colonial officials in England, like Cole and Wade, was not mobilised to counter the continual flow of information from the humanitarians at the Cape to their allies in Parliament and the missionary societies. As Cloete informed D'Urban on 12 November, 1835: "I have not been able to see Beresford and know not what his plans are."<sup>79</sup> Moreover, D'Urban failed to inform them directly of the new provisions of his September policy, which allowed the Xhosa to remain in the annexed territory.

The 'Party' was better organised. For years past Buxton had been the recipient of a voluminous correspondence from Philip who had informed him of everything from the conditions relating to the Khoikhoi, to Griquas and the eastern frontier. In the euphoria of post-emancipation success, Buxton made notice of his intention to bring forward a motion in the Commons to secure an investigation into the treatment of the indigenous inhabitants of British colonies of settlement. Forearmed by Philip, he had forcibly brought the matter of commandos before the Secretary of State, Lord Stanley. Buxton had intended to obtain the appointment of his committee in early June, 1834, and among the humanitarians Pringle looked forward to how "Col. Bell and that poor sumph Sir Lowry",<sup>80</sup> and Lieut.-Colonel Wade would be laid low by the evidence before the committee, particularly that of Stockenstrom. Stockenstrom was touring Europe at the time, brooding over imagined wrongs and the failure of his Commissioner-Generalship to exert a constructive

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<sup>79</sup>C.A., A519, Vol. 3, pp.146-9, Cloete to D'Urban, 12 November, 1835. Cloete's emphasis.

<sup>80</sup>Pringle to Fairbairn, 22 May, 1834. Quoted in Urie, 'A critical study of the evidence of Andries Stockenstrom before the Aborigines Committee...', p.68.

influence on the eastern frontier. Although Stockenstrom seems to have mistrusted the enthusiasm of the humanitarians, he maintained contact with Buxton, Pringle and the Colonial Office, anxious to vindicate his tenure as Commissioner-General and to gauge the prospects for re-appointment.

Stanley's departure from office in June, 1834, threw Buxton's plans awry, and he first postponed his motion until 1 July, 1834, and then called, not for a committee, but for an Address to His Majesty to take such measures and give such instructions to the officers in the British colonies as would "secure to the natives the due observance of justice, and the protection of their rights, promote the spread of civilization amongst them, and lead them to the voluntary reception of the Christian Religion."<sup>81</sup> On the understanding that the new Secretary of State, Spring Rice, would do all in his power to draw the attention of the British government to the question of native policy, Buxton waived his motion for a committee, and substituted one for the Address. Spring Rice seconded the motion, but questioned whether many of Buxton's statements were "relevant to the actual conditions of those tribes at the present time, or still less that they could be applicable to the conduct of the British Government," and noted that indeed the principles Buxton espoused were those "on which the British Government has for a considerable time been disposed to act." Spring Rice declared that his observations were made as some of Buxton's statements "might otherwise have been calculated to mislead the House, and to produce an impression unjust towards our Colonial Administration, which I am sure it could not be his object to create or to extend." Yet with prescience, Spring Rice declared that while he would not object should Buxton make motion for a committee at the next Parliamentary session, "I think my Honorable [sic] Friend is over-sanguine in supposing that the utmost exertions of Parliament and of the Government, can avert all the evil consequences which the approach of civilization must produce amongst a barbarous nation."<sup>82</sup>

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<sup>81</sup>Buxton before the Commons, 1 July, 1834. Reported in a supplement to the G.T.J., 27 November, 1834.

<sup>82</sup>Ibid.

Spring Rice, of course, had not been exposed to Philip's evidence as Stanley had been, and Buxton, that "most excellent man, but dilatory and somewhat irresolute when he has to deal with civil men like Spring Rice, trusting to their good intentions",<sup>83</sup> let the matter stand.

The unexpected outbreak of war on the eastern frontier in December, 1834, again forced Cape affairs to the fore, and once again provided Buxton with the necessary impulse to seek his Parliamentary Committee. The news of the war reached him by 12 March, 1835, and his daughter later informed Philip that Buxton had given notice to make a motion for an inquiry on 19 May.<sup>84</sup> Philip's return correspondence concentrated mainly on the causes of the war as he saw them. He stressed the basis for all future relations: "The affairs of the frontier must be consigned entirely to a civil agency; exclude the military in all ordinary circumstances from meddling with the affairs of the Caffres."<sup>85</sup> Philip supported the appointment of "a Committee of the House of Commons to take into consideration the whole of the frontier system." On 31 July, 1835, Buxton's "capital good Committee" had its first meeting, and became known to posterity as the Aborigines Committee of 1835-7.

This Parliamentary Committee of the House of Commons was authorised

to consider what Measures ought to be adopted with regard to the Native Inhabitants of Countries where British Settlements are made; and to the Neighbouring Tribes, in order to secure to them the due observance of Justice and the protection of their Rights; to promote the spread of Civilization among them, and to lead them to the peaceful and voluntary reception of the Christian Religion...<sup>86</sup>

The Committee consisted of 15 members, of whom the most notable were Buxton himself, Sir Rufane Donkin, a former acting Governor of the Cape

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<sup>83</sup> Philip to Pringle [?] August, 1835. Quoted in Macmillan, Bantu, Boer and Briton (1963 edit.), p.213. (Pringle's emphasis.)

<sup>84</sup> Priscilla Buxton to Philip [?]. Quoted in Macmillan, *op.cit.*, p.142.

<sup>85</sup> Philip to Buxton, 27 January, 1835. Quoted in Macmillan, *op.cit.*, pp.141-2.

<sup>86</sup> P.P., 1836, VII, (538), p.iii, Report from the Select Committee on Aborigines (British Settlements).

of Good Hope in 1824-5, Sir George Grey,<sup>87</sup> and the young William Gladstone,<sup>88</sup> who made his first appearance on the Committee<sup>89</sup> during the Parliamentary session of 1836 as a replacement for one Hardy. The Committee met briefly in 1835<sup>90</sup> and got down to serious work during the Parliamentary session of 1836.<sup>91</sup> A further three weeks were required early in the session of 1837<sup>92</sup> to allow parties who considered themselves falsely inculpated by previous evidence to defend themselves. Wade and Philip were noticeable antagonists at these last meetings.

During the period of its existence the Aborigines Committee held 54 public sittings and interviewed 45 people. Of these, 33 were concerned in some way with the Cape Colony. For a Colony whose chief imperial importance lay in its strategic position on the way to India, and whose interior was considered the "most sterile and worthless",<sup>93</sup> the problems of the Cape with regard to its indigenous inhabitants had provided a wide arena for the exercise of the humanitarian spirit, and consequently absorbed a disproportionate amount of the Committee's time and energy. The reasons for this are not hard to find. The London Missionary Society had a strong proselytising interest among the Colony's indigenous peoples. It also had Dr John Philip as its Superintendent of Missions in Southern Africa, and he was an energetic

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<sup>87</sup>Parliamentary Under Secretary of State for War and the Colonies in both Melbourne's Ministries of July - November, 1834, and April, 1835 - September, 1841, Grey later became the first Secretary of State for Colonies in June, 1852, when that portfolio was separated from the War Office. See D.S.A.B., Vol. II, p.176.

<sup>88</sup>Later Chancellor of the Exchequer under Aberdeen, Palmerston, Russell, and for a period concurrent with the post of Prime Minister (1880-2). Gladstone was also four times Prime Minister of Great Britain - December, 1868 to February, 1874; April, 1880 to June, 1885; February, 1886 to August, 1886; August, 1892 to March, 1894.

<sup>89</sup>The other members of the Committee were Hawes, Bagshaw, Holland, Lushington, Pease, Baines, Johnston, Hindley, Plumptre, Wilson and Col. Thompson.

<sup>90</sup>31 July - 31 August, 1835.

<sup>91</sup>12 February - 1 August, 1836.

<sup>92</sup>27 February - 19 May, 1837.

<sup>93</sup>Minute by Stephen, 19 February, 1841 [?], quoted in Galbraith, Reluctant Empire, p.26.

man known for his vigorous championing of justice for people of colour both in the Colony and beyond its borders, and for his strong views on the rights and wrongs of the situation. He was also a man who had frequently clashed with the colonial authorities over these views. Philip was a tireless and prodigious correspondent, and among the chief recipients of his letters was Buxton, with whom Philip largely maintained contact through members of Buxton's family.<sup>94</sup>

Presented with the problem of D'Urban's unauthorised annexation, and the lack of sufficient information from the Governor demonstrating the justice of his policy, Glenelg carefully sought information from a variety of sources.<sup>95</sup> On 26 September, 1835, at the Secretary of State's request, Buxton and William Ellis, Secretary to the London Mission Society, awaited upon him and presented him information relating to the causes of the war, which in turn they had obtained from Philip. Ellis probably continued to provide such information up to late November, 1835, while it seems that Buxton intended visiting the Colonial Office to discuss the war as late as 16 December, 1835.<sup>96</sup> Buxton left a colourful view of his meeting of 26 September in a letter to his sister.

I gave our new Colonial Secretary a disquisition to my heart's content on the treatment of savages, the death of Hintza, the atrocities of white men, and above all, on the responsibilities of a Secretary of State; and I assured him that I knew there was a corner in the next world hotter than the rest, for such of them as tolerate the abominations which we practise abroad.<sup>97</sup>

D'Urban was convinced that Philip had been at the bottom of the 26 December, 1835, despatch, and informed Glenelg of his suspicions in his despatch of 9 June, 1836. In his reply of 1 May, 1837,<sup>99</sup> Glenelg

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<sup>94</sup>See Macmillan, Bantu, Boer and Briton (1963 edit.), p.101.

<sup>95</sup>This is clearly underlined in James Roxborough's thesis, 'Colonial Policy on the Northern and Eastern Frontier...', pp.137-8.

<sup>96</sup>Roxborough, *op.cit.*, p.111.

<sup>97</sup>Buxton, Charles (ed.), Memoirs of Sir Thomas Fowell Buxton, p.366.

<sup>98</sup>P.P., 1837, XLII, (503), pp.54-259, D'Urban to Glenelg, 9 June, 1836.

<sup>99</sup>C.A., G.H., 1/114, Glenelg to D'Urban, 1 May, 1837.

disabused him of this belief.

You suggest that I derive my information from Dr Philip or from the writers of the colonial newspaper which you describe as his organ [South African Commercial Advertiser]. I must therefore apprise you that subject to a solitary exception<sup>100</sup>...I did not refer to information furnished by Dr Philip for any of the facts which my despatch of the 26th December records. Of the newspaper which you mention and its writers, I know nothing except from common rumour.

In the absence of any information specifically requested by Aberdeen in his despatch of 11 April, 1835,<sup>101</sup> Roxborough believed that Glenelg based his 26 December despatch more on a discriminating survey of evidence before the Aborigines Committee than on Philip's evidence presented to him by Buxton and Ellis.

Roxborough based this opinion on a careful study of the sources of Glenelg's despatch, preserved in Colonial Office files, and on a series of foul drafts of the 26 December despatch. In the marginalia of one particular foul draft, dated 23 November, Roxborough discerned evidence of Glenelg's favourable impression of the way in which the evidence of some witnesses before the Aborigines Committee was independently confirmed. Glenelg declared:

There is scarcely a fact mentioned [by several un-exceptional witnesses whose testimony is recorded in published works or in the minutes of the Aborigines Committee], scarcely a circumstance, I might almost say scarcely an implication which is not corroborated in some part of the dispositions of unpublished authorities.<sup>102</sup>

Roxborough commented:

One of the main interests of Glenelg seems to have been the evidence taken before the Aborigines Committee considered along with the despatches of D'Urban. In

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<sup>100</sup>For Glenelg's explanation of this 'solitary exception', see his despatch of 1 May, 1837, op.cit., pp.72-83.

<sup>101</sup>p.p., 1835, XXXIX, (252), p.131, Aberdeen to D'Urban, 11 April, 1835.

<sup>102</sup>Quoted by Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', p.145.

his views and approach to these sources he is not absolutely objective having, apparently, already imbibed views on the subject - he is selective but concerned to gather information from a wide variety of sources and conscious, it seems, of the need to choose witnesses of authenticity and with personal knowledge gained at first hand. His aim is quite definitely, it seems, justice towards the Caffres.<sup>103</sup>

Roxborough observed in a footnote that in the margin of the foul draft of 23 November, Glenelg had written "H.M. could never consent to consult expediency at the expense of justice."<sup>104</sup>

In the despatch of 26 December, Glenelg certainly expanded the theme of justice, declaring:

The extension of His Majesty's dominions in that quarter of the globe [southern Africa] by conquest or cession is diligently and anxiously to be avoided. Hostilities with the tribes in our vicinity may occasionally be inevitable for the protection of the King's subjects, but on every other ground they cannot too earnestly be deprecated. In our relations with those tribes, it yet remains to try the efficacy of a systematic and persevering adherence to justice, conciliation, forbearance and the honest arts by which civilization may be advanced, and Christianity diffused amongst them; and such a system must be immediately established and rigidly enforced. <sup>105</sup>

The result of all Glenelg's investigation and research was the despatch of 26 December, 1835. Historians like Chase, Theal and Cory have seen this despatch as the notorious culmination of a narrow and misguided philanthropy which overthrew D'Urban's orderly frontier settlement, and again reduced the area to anarchy. The opposing liberal view was given by W.M. Macmillan who wrote in the 1929 edition of Bantu, Boer and Britain: "It is to Glenelg's credit, and to the honour of British Imperialism that annexation was not to be lightly and greedily sanctioned for the sake of acquiring territory."<sup>106</sup>

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<sup>103</sup>Ibid., p.159.

<sup>104</sup>Ibid., p.159.

<sup>105</sup>p.p., 1836, XXXIX, (279), p.68, Glenelg to D'Urban, 26 December, 1835.

<sup>106</sup>Macmillan, Bantu, Boer and Briton (1929), p.141. This sentence was omitted in Macmillan's second edition, published in 1963.

Even twenty years ago, the authorship of the Glenelg despatch was in doubt, and an element of that doubt still remains. The traditional view has been that the somnolent Glenelg was incapable of the exertion and the grasp of detail which the despatch displayed. This view derived much of its weight from contemporary sources. The Times in 1836 caustically declared the fact that the emigration of the Boers from the frontier districts "should have wakened even Lord Glenelg from his bed of poppies and caused him to yawn out a languid negative, will create no surprise." The newspaper also insisted that "the sort of individuals appointed to Lieutenant-Governorships should also be better looked to", and continued, "but the likelihood is that if the noble Asiatic [Glenelg] should lift up his eyelids at all, he will turn upon his couch and resuming his siesta, give himself to no further trouble on the subject."<sup>107</sup>

Glenelg's political chief, Lord Melbourne, seems to have inclined to this view, and was reported as describing his Secretary of State for War and the Colonies as "a mild agreeable man" who was "too late and never ready."<sup>108</sup> Roxborough attempted to explain Glenelg's somnolent reputation as something which had arisen from the cast of his facial features. According to the Complete Peerage of the day, "the somnolent expression of his [Glenelg's] long drawn features led to his habitually represented in the caricatures of the period as asleep."<sup>109</sup> Although colonial affairs occupied relatively little parliamentary time at that period, when they did it was often during a crisis when the concerned Minister's languorous reputation was little appreciated and certain to draw adverse criticism from an alert opposition.

The modern trend has been to rehabilitate Glenelg. On Glenelg's resignation in 1839 Stephen described him as "the most laborious, the most conscientious and the most enlightened"<sup>110</sup> of the Secretaries

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<sup>107</sup>Quoted from The Times (undated) by the Watchman of 21 September, 1836. See Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', pp.178-9.

<sup>108</sup>Quoted in Roxborough, op.cit., p.179.

<sup>109</sup>Quoted in Roxborough, *ibid.*, p.180.

<sup>110</sup>Quoted in Roxborough, *ibid.*, p.181.

of State under whom he had served. Galbraith gave a specific focus to the modern view when he pointed out that Glenelg's temperament was that of "an excessively fastidious scholar" who sought all the relevant facts before committing himself to a line of policy, and who displayed "an excessive preoccupation with the details of composition of his dispatches."<sup>111</sup>

After a careful examination of the foul copies of the 26 December despatch and all the relevant material he could find, Roxborough came to the conclusion that Glenelg was primarily responsible for that despatch. James Stephen and Sir George Grey obviously had a hand in compiling it, but they played relatively subordinate roles: the former helped to gather information for the despatch and possibly lent his legally-trained mind to help shape its final form, and the latter added the benefit of his experience.

The Glenelg despatch summed up the liberal and humanitarian approach of the Colonial Office to the situation of aborigines in British colonies of settlement in the 1830s. On one level it was the culmination of the humanitarian impulse which had permeated parliamentary and official thinking, and which had achieved its greatest single success in the emancipation of slaves in August, 1833. On another level it was part of a conscious British policy to achieve a just and reasonable *modus vivendi* with the indigenous peoples in its colonies. The alternative was war, often followed by administrative control, a process which was needlessly costly in terms of lives, money and wasted commercial opportunities.

Glenelg stated clearly that he believed "the Caffres had an ample justification of the war into which they rushed with such fatal imprudence...",<sup>112</sup> firstly to avenge the series of encroachments upon their land which had effectively driven them beyond the Keiskamma, and the fluctuating policy of the Colonial government with regard to the occupation of land within the ceded territory. And secondly, because they had been goaded beyond endurance "by a long

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<sup>111</sup>Galbraith, Reluctant Empire, p.20.

<sup>112</sup>C.A., G.H. 1/107, pp.27-8, Glenelg to D'Urban, 26 December, 1835.

series of acts of injustice and spoliation" conducted under "the express sanction and guidance of the authorities, civil and military, of the frontier districts." Glenelg saw that the commando system established a vicious circle. A kraal which had lost its cattle to the colonial authorities in retaliation for the crimes of others would in turn seize any cattle it could, and as a result, "insecurity, depravity of manners and social wretchedness were diffused throughout our whole vicinity; and our own people, though not the only victims, were necessarily amongst the chief sufferers..." With a grasp of the fundamental problem, Glenelg continued that

driven as they [the Xhosa] had been from their ancient and lawful possessions, confined within a comparatively narrow space where pasturage for their cattle could not be readily found, and urged to revenge and desperation by the systematic injustice of which they had been the victims, [he was] compelled to embrace, however reluctantly, the conclusion that they had a perfect right to hazard the experiment, however hopeless, of extorting by force that redress which they could not expect otherwise to obtain... 113

The despatch was compendious in its detail and weighty in its deliberation, so it is necessary here to focus on the facts of that despatch as they relate to several of the themes of this thesis, principally the desire for military security on the frontier displayed by the Colonial government, and the clash of that desire with the ideals of the humanitarians, and the penny-paring programme of the economy-minded.

The first important point was that Glenelg, with his humanitarian background, was offended by D'Urban's indiscreet denunciation of the tribes as "irreclaimable savages" in his proclamation of 10 May, 1835, and by his comparison of the Xhosa to "wolves" in his despatch of 19 June. With measured and reasoned logic, Glenelg rebuked D'Urban, stating that in other parts of the world "similar reproaches cast indiscriminately on the uncivilized men" with whom Europeans had been brought into contact, had resulted in the relegation of these people to a sub-human status. Thereafter little difficulty had been experienced by these colonists "in defending, at least to their own

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<sup>113</sup>C.A., G.H. 1/107, pp.49-50, Glenelg to D'Urban, 26 December, 1835.

satisfaction, whatever measures were necessary for the subjugation or destruction of the common enemy."<sup>114</sup> Glenelg pointed out that the safety missionaries and traders had enjoyed beyond the Keiskamma was sufficient to rebut D'Urban's characterisation.

The Secretary of State also criticised the Governor's handling of the actual campaign in the trans-Keiskamma territory. Glenelg declared that with an army of 5,000 men D'Urban had carried out an invasion and spent three months attempting to fight "disorganised bodies of men skulking in their natural fortresses", and in the process had lost 18 men killed and wounded, and of those some had lost their lives "by such a contempt for their opponents as led to acts of almost incredible temerity."<sup>115</sup> With this in mind, Glenelg pointed out that "the various General Orders published by your officers and yourself abound with accounts of the most formidable losses, both of life and property. I find no reference to the capture of any prisoners, but on various occasions hundreds of the Caffres are noticed as having fallen."<sup>116</sup>

Glenelg quoted from Smith's letter to D'Urban dated 11 June, 1835,<sup>117</sup> in which Smith had described the burning of about twelve thousand huts, the destruction of immense stores of corn and the capture of 215 head of cattle, several horses and two thousand goats. The Secretary of State would have been affected by these statements in "a manner the most remote from that which the writer contemplated."<sup>118</sup> He illustrated this point by a reference to warfare in Europe where "this desolation of an enemy's country, not in aid of any military operations, nor for the security of the invading force, but simply

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<sup>114</sup>P.P., 1836, XXXIX, (279), p.64, Glenelg to D'Urban, 26 December, 1835.

<sup>115</sup>Glenelg's facts were not strictly up to date, and the loss of Baile's party of 30 men on 27 June, 1835, was not included. See Cory, Vol. III, 174-5. Also see P.P., 1837, XLIII, (503), p.33, Smith to D'Urban, 17 April, 1836, for a list of colonial casualties.

<sup>116</sup>P.P., 1836, XXXIX, (279), p.66, Glenelg to D'Urban, 26 December, 1835.

<sup>117</sup>Ibid., p.66.

<sup>118</sup>Ibid.

and confessedly an act of vengeance has rarely occurred, and the occurrence of it has been invariably followed by universal reprobation."<sup>119</sup> While stating his awareness that the laws of civilised nations could not be rigidly enforced in Britain's contests with barbarous men, Glenelg declared that there were certain immutable and universal principles from which the laws of war were derived. The first was that

the belligerent must inflict no injury on his enemy which is not indispensably requisite to ensure the safety of him by whom it is inflicted, or to promote the attainment of the legitimate ends of the warfare. Whether we contend with a civilised or a barbarous enemy, the gratuitous aggravation of the horrors of war, on the plea of vengeance or retribution or on any similar grounds, is alike indefensible.

Glenelg confessed his

inability to discover what danger could be averted, or what useful object could be attained, by the desolation of the Caffre country, which Colonel Smith has described. The inhabitants had been taught the utter hopelessness of a contest with a British force. They had learnt that, for their injuries, whatever they might be, the redress was not in their own power. As the conviction of their helplessness was thus forced upon them, forbearance in the use of our irresistible means of destruction became still more clearly the paramount duty of the leaders of His Majesty's forces. <sup>120</sup>

Glenelg also declared himself dissatisfied with the reasons which had led D'Urban to draw Hintsa into the war, and with his treatment and subsequent death at British hands.

D'Urban and Smith were both highly incensed at this lecture from a civilian, albeit a Secretary of State, on a state of affairs of which he was personally inexperienced. Both were professional soldiers of many years standing, and to suggest they had misused their power as British veterans clearly cut them to the quick, the more so as Smith's conduct in stemming the tide, moreover, had marked him in D'Urban's eyes as worthy of promotion.<sup>121</sup>

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<sup>119</sup>P.P., 1836, XXXIX, (279), p.66, Glenelg to D'Urban, 26 December, 1835. (My emphasis.)

<sup>120</sup>Ibid. (My emphasis.)

<sup>121</sup>See, for example, C.A., A519, Vol. 18, pp.48-9, D'Urban to Bell, 20 February, 1835. "The operations for clearing the Fish

As a result of Glenelg's criticism Smith, in his own inimical style, wrote a lengthy and emotional defence of his campaign against the Xhosa, and D'Urban's subsequent settlement. He requested that D'Urban transmit it to Glenelg, which D'Urban did under cover of his despatch of 19 September, 1836.<sup>122</sup>

Smith declared that the tactics he had employed against the Xhosa had not been motivated by a spirit of vengeance, and that the Kei frontier line had been established by right of conquest.

Such have been the usages of nations from time immemorial, from the days of Adam and Eve, who were expelled from Paradise for their transgressions; the Holy Bible, our most ancient history, is replete with the expulsion and banishment of nations. All the great conquerors before Christ either banished or made slaves of the vanquished. In the wars subsequent to Christianity, they have been carried on upon the same principle, of which the Crusades afford a striking example.<sup>123</sup>

Smith continued that the history of Europe afforded more examples of the horrors of war

than any it became my obedience to conduct and report ...ocular demonstration for seven years in the Peninsula, where the atrocities of the French troops were as much practised as abhorred; the war of retribution and retaliation with America in 1813 and 1814...are ample proofs that war is not a game of pleasure but one of retribution and indemnification since time immemorial.<sup>124</sup>

With regard to Glenelg's criticism of his destruction of kraals and corn supplies, Smith stated:

[the Xhosa] would neither retire nor accept the terms of peace offered; hence compulsion was requisite in conformity to precedent...The enemy will not retire;

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R. fastresses have been well wound up...I have been very glad to give Smith this opening...He has availed himself of it, and I trust it may do him good at the Horse Guards, in a point which he wishes to carry" [i.e. promotion].

<sup>122</sup>P.P., 1837, XLIII, (503), pp.29-35, Smith to D'Urban, 17 April, 1836, Enclosure No.1 in D'Urban to Glenelg, 19 September, 1836.

<sup>123</sup>Ibid., p.30.

<sup>124</sup>Ibid., p.31.

you destroy the resources of his country, according to the usages of war, to effect your purpose...Did not the Duke of Wellington cause our allies, the Portuguese, to drive and destroy the whole produce of their country, and to fly it from the Coa to the Torres Vedras? However apparently harsh, the measure was necessary...Is this, the Nineteenth Century, to tolerate the bloody aggressions of barbarians? Or is this colony or its rulers to be debarred from resorting to the practices of cruel war, or its soldiers to be accused of inflicting gratuitous aggravations of its horrors, to effect the main object, 'peace and tranquillity'? Soldiers are men like others, who imbibe their concepts of right from education, precept and example; and a new era must open a new school, and former precedents be prohibited, ere the veterans of the British army can justly be accused of unnecessary severity.

Smith's conclusion was in line with what one could expect from a professional soldier of the period. He declared: "Decidedly no revengeful feeling exists either in my mind or practice; but whether in war or peace, obedience is the first duty of the soldier; his next, fearlessly, zealously and conscientiously to perform it."<sup>125</sup>

Burdened with the responsibility of conducting and ending the war, as well as protecting the Colony and securing a settlement which would not comprise these goals, D'Urban was not as dispassionately objective as Glenelg, thousands of miles away in London. D'Urban was the conqueror and the man 'on the spot', and was determined to use his position to arrange things in the best interests of the future military security of the Colony. Concepts of just dealing were necessarily remote to a professional soldier who had waged an expensive campaign against an enemy who, in his eyes, had treacherously struck the first blow when a new and more equitable frontier system was soon to be introduced, and when he had broadcast that fact.

Glenelg disapproved of D'Urban's settlement as both an unjust and an unwanted extension of the Colony, but as D'Urban had yet to satisfactorily answer Aberdeen's despatch of 11 April, 1835, which had requested an exposition of the causes of the war, Glenelg declared:

It is possible that you may be in possession of facts of which I am ignorant, the knowledge of which would have irresistably dissuaded the adoption of some of

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<sup>125</sup>Ibid., p.35.

those measures which I am about to explain. You may have it in your power to convince me that some of the premises upon which I have been compelled to reason are so entirely mistaken or fallacious as not to support my practical deductions from them...[should you] be clearly persuaded that I have fallen into any such misapprehensions, it will become your duty to assume to yourself the responsibility of suspending, until further directions, the execution of any part of the following instructions, which you may be convinced had its origin in any such misconception. <sup>126</sup>

This stay of a direct order to abandon Queen Adelaide Province was the result of William IV's refusal to sanction any such instruction until D'Urban had been given the opportunity to defend his measures. William disliked his Whig Government, and particularly Glenelg whom he saw as the proponent of a weak colonial policy, especially with regard to Canada. William was consequently receptive to Beresford's account of the feasibility of D'Urban's settlement. <sup>127</sup>

In this lay the seeds of misunderstanding. It seems D'Urban interpreted Glenelg's remarks to mean that his settlement could still receive the approval of the British government if it could be shown that the settlement really worked. Moreover, D'Urban believed his despatch of 7 November, 1835 - which he had sent prior to his receipt of Glenelg's despatch of 26 December - conveyed this intelligence, and considered any further communication unnecessary. Glenelg, however, saw the 7 November despatch as an incomplete prelude to further information, and consequently both in London and Cape Town a state of expectation prevailed for several months, until Stockenstrom's arrival led to the settlement's reversal.

The measures Glenelg suggested as an alternative in his 26 December despatch were based upon renunciation of Queen Adelaide Province, not only because of the unjust system which had precipitated the war, but also because he considered the new territory would merely put the frontier forward and lead to interaction with new tribes and

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<sup>126</sup>P.P., 1836, XXXIX, (279), p.68, Glenelg to D'Urban, 26 December, 1835.

<sup>127</sup>See, for example, A519, Vol. 2, pp.231-40, Beresford to D'Urban, 12 September, 1835: "...King, Secretaries and all call it the New Province, and as far as I can judge, they will retain it."

exiled Xhosa anxious for revenge. If the new province was retained he believed the civil and military establishments necessarily required would be prohibitively expensive, especially for a Colony poor both in the numbers of its colonists and its natural resources.

Moreover, Glenelg was unimpressed by D'Urban's assertion that the Kei River was a better and more easily defensible boundary and pointed out with irrefutable logic that it was longer, and its lines of communication and logistic support were far from the main strength of the Colony. The Secretary of State was only prepared to countenance the number of regular troops already stationed at the Cape, and declared, again with irrefutable logic, that "the number already supplied is probably all that in justice to the people of this country [Great Britain], and to the great demands of the empire, ought to be allowed for that object."<sup>128</sup> The shortfall was to be made up by the establishment of a local militia. But rather than put faith in the military, Glenelg believed the safety of the Colony could be best derived

from observing in our dealings with the frontier tribes the most rigid justice, respect for their feelings and prejudices, regard for their real interests, conciliatory kindness when it can be properly shown, and above all, an unwearied anxiety to diffuse among them the blessings of education and of Christian knowledge. <sup>129</sup>

D'Urban was therefore to prepare the public mind for the renunciation of Queen Adelaide Province which was to be completed by the end of 1836.

With regard to the Mfengu, Glenelg declared that he could find no parallel between D'Urban's 'liberation' of them and negro emancipation. "In the one case we liberated the slaves of our enemies at the cost of their owners, in the other case we liberated the slaves of British subjects at the cost of the national revenue."<sup>130</sup> But Glenelg declared that to allow the Mfengu to revert to their original condition was indefensible, and they were to be settled under British protection on land west of the Keiskamma.

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<sup>128</sup>P.P., 1836, XXXIX, (279), p.70, Glenelg to D'Urban, 26 December, 1835.

<sup>129</sup>Ibid., p.70.

<sup>130</sup>Ibid., p.70.

The defeated clans of Maqoma, Tyhali and their allies were not to be exiled beyond the Kei River, but the restoration of their ancient lands was to be accompanied by arrangements granting each tribe "its own proper limits". Glenelg further declared that to regulate the future relations between colonist and Xhosa, His Majesty had decided to appoint a Lieutenant-Governor for the eastern districts who was to administer its executive government. A Civil Commissioner or Protector of Native Tribes was to be appointed to protect borderers on either side against mutual aggressions, and to investigate all acts of cattle stealing or reprisal. A government Agent was also to be appointed to live in the trans-Keiskamma territories, "with the requisite powers to make him an efficient guardian over the rights as well of the natives as of European traders."<sup>131</sup> All communications with the Xhosa on matters of 'international subjects' were to be carried on through this government Agent.

Glenelg established a number of basic principles to guide the Lieutenant-Governor and the Protector, notably the provision for written treaties in English and Xhosa which defined boundaries and which were to be explained to, and signed by, each border chief, all of whom were to have copies. There were also to be treaties with the chiefs of the tribes within 'the British dominions' defining the limits of their land allocation, their degree of responsibility, and the nature of their relations with the British government. The chiefs were again to retain copies. These treaties were to particularise the rules of mutual restitution, as well as to those relating to the prevention of incursions and the redress of injury. The responsibility of selected kraals for individual acts of depredation was no longer to be enforced, but in cases where sufficient proof existed the chiefs were to bind themselves to make restitution for plundered cattle. Glenelg declared: "They must be left to detect the offenders or to indemnify themselves at the expense of the tribe collectively for such losses as they may sustain by being required to make these compensations."<sup>132</sup>

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<sup>131</sup>P.P., 1836, XXXIX, (279), p.71, Glenelg to D'Urban, 26 December, 1835.

<sup>132</sup>Ibid., p.71.

The chiefs and not the people were to treat with the Colonial government, and were to enter into 'sufficient and convenient' pledges for the fulfilment of these provisions. Trade fairs were to be established along the frontier, and the killing, wounding or interference with the property of a tribesman was to receive the same punishment as for any similar act within the Colony. Finally, no Khoikhoi - excepting those settled there before the war, and no white except missionaries - was to be allowed to settle east of the Fish River. This latter provision was clearly unacceptable because it in effect meant a reversion to the frontier line of 1778, a move Glenelg had already dismissed as impractical. In a letter to the Secretary of State dated 8 March, 1836, Stockenstrom pointed this out, and the provision consequently fell away.<sup>133</sup>

In respect of his emphasis on written treaties, Glenelg's prescription for the ills of the eastern frontier was in conformity with the ideas of both Stanley and Cole. Interestingly enough, however, the Report of the Aborigines Committee presented in 1837 opined that treaties should not be entered into between Colonial governments and neighbouring tribes. They believed that "compacts between parties negotiating on terms of such entire disparity are rather the preparatives and the apology for disputes than securities for peace." Also, the ambiguity inherent in such documents would provide "a ready pretext for complaint", and the Committee declared that the welfare of "an uncivilized race" required a lessening of contacts with "their more cultivated neighbours" rather than an increase.<sup>134</sup> Glenelg's choice of Stockenstrom as Lieutenant-Governor apparently owed much to Philip's recommendation of him for such a responsible post as early as January, 1835.<sup>135</sup> Stockenstrom had resigned his office as Commissioner General in 1833 in disgust, but his continued willingness to serve at the Cape was indicated in his letter to Stanley of

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<sup>133</sup>p.p., 1837, XLII, (503), pp.2-3, Stockenstrom to Glenelg, 8 March, 1836.

<sup>134</sup>p.p., 1837, VII, (425), Report from the Select Committee on Aborigines, p.80.

<sup>135</sup>See Urie, 'The Evidence of Andries Stockenstrom before the Aborigines Committee...', p.86.

16 January, 1834.<sup>136</sup> In January, 1835, Stockenstrom met Glenelg at the Secretary of State's request, and was asked for his opinion on the general state of the eastern frontier, especially D'Urban's settlement, and for his suggestions as to the best policy to adopt. Stockenstrom replied with his memorandum of 7 January, 1835.<sup>137</sup> After several interviews Glenelg was apparently satisfied that Stockenstrom's views were sufficiently similar to his own to ensure success, and he offered him the position of Lieutenant-Governor.

To support his proposed policy Glenelg informed D'Urban that a law to enable colonial tribunals to take cognizance of and punish crimes committed beyond the colonial frontier was to be put before Parliament. This was later to be known as the Cape of Good Hope Punishment Act of 1836.<sup>138</sup> The Lieutenant-Governor was to carry further instructions which would define his duties and those of the Governor, and their respective authority.

Glenelg continued that although D'Urban's despatch of 19 June, 1835, had indicated an end to the war, newspapers and private letters from the Colony spoke of the continuation of military operations as late as September of that year. He therefore instructed D'Urban to end hostilities as soon as possible. He declared:

They must not be protracted for a single day with a view to revenge or conquest. The safety of His Majesty's subjects in the districts of Somerset and Albany is the single legitimate object with which such a contest can be carried on at all, and that object, once attained, it must be immediately terminated...The utmost possible benefit to be obtained [by war] is insignificant when contrasted with such an outlay of the national resources at a moment when the strongest necessity exists for carrying an enlightened but strict economy into every part of the public service.<sup>139</sup>

The sincere humanitarian impulse which in part motivated Glenelg's despatch was clearly apparent as were the factors of financial control and retrenchment.

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<sup>136</sup>p.p., 1836, VII, (538), p.98, Stockenstrom to Stanley, 16 January, 1834.

<sup>137</sup>Hutton, Autobiography of the late Sir Andries Stockenstrom, Vol. II, pp.30-40.

<sup>138</sup>VI & VII, Will.IV, cap. LVII. A.R. 1836. See Chapter 7.

<sup>139</sup>p.p., 1836, XXXIX, (279), p.72, Glenelg to D'Urban, 26 December, 1836.

He was determined that southern Africa was not to be added to the

list of the regions which have seen their aboriginal inhabitants disappear under the withering influence of European neighbourhood...His Majesty has commanded me to express his solicitude for the protection of the Aborigines of Southern Africa, and his repugnance to sanction any enlargement of his dominions of which their sufferings would be the price. 140

Glenelg clearly specified that he awaited with solicitude D'Urban's answer to this despatch, and declared that after considering that answer, "His Majesty's Government hope to be able to issue their final instructions." D'Urban misinterpreted, or chose to misinterpret, this to mean a stay of execution for his system if he could show it worked, although the tone of the despatch indicated a strong desire on the part of the Colonial Office to forgo D'Urban's settlement.

The despatch of 26 December did not take into account the September Treaties, as no official details of these treaties had reached the Colonial Office by the time Glenelg's despatch had been transcribed in its final form. D'Urban's official despatch of 7 November, 1835, giving news of the final conclusion of peace, did not reach the Colonial Office until 30 January, 1836. But details of the treaties had certainly reached England through other channels. Colonel Bell had written a general letter, dated 24 September, 1835, giving news of the treaties to Hay, and it was registered as having been received at the Colonial Office on 8 December, 1835.<sup>141</sup> By 1835 Hay had been isolated from any active participation in colonial policy making, and it is possible that Glenelg did not see Bell's letter. But through Bell's letter and copies of Cape newspapers arriving in London before 26 December, 1835, the staff of the Colonial Office must have been aware of the abandonment of the May policy. In particular, The Graham's Town Journal of 24 September, 1835, had published full details of the September treaties in a supplement. A copy of this supplement was registered in the Colonial Office files as having been received on 29 December,

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<sup>140</sup>Ibid., pp.72-3. (my emphasis.)

<sup>141</sup>See Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', p.184.

three days after the date of the Glenelg despatch. Moreover, the supplement had been republished in the 16 December issue of the Watchman, a Wesleyan orientated publication, ten days before the date of Glenelg's despatch.<sup>142</sup>

Whether Glenelg did or did not know of the details of the September treaties is a question of largely academic interest, since the two main themes of the 26 December despatch were concerned with no further territorial annexation and an overdue application of a system of just dealing with the Xhosa. Glenelg was thus not only redressing the faults of D'Urban's settlement, but also of frontier policy for many years past. D'Urban's September policy, in Glenelg's view, accorded neither of these. In his despatch of 17 February, 1836, Glenelg acknowledged the despatch of 7 November, 1835, and informed the Governor:

The basis of the treaties into which you have entered with the Caffre chiefs being the subjection of themselves and their people to His Majesty, the other terms of those treaties scarcely demand a very serious attention [since] His Majesty is not disposed to accept the allegiance of the Caffres, or the dominion of their country...<sup>143</sup>

Officially D'Urban minimized the importance of the change which his September treaties embodied. His May policy had been to clear Queen Adelaide Province of all those Xhosa who had been involved in the war, naturalise the remaining clans as British subjects, allot them areas of settlement, and stabilise the area with white settlers who would occupy much of the remaining land. Land would also be granted as an inexpensive way to compensate war losses. Whereas the earlier policy intended the incorporation of a few scattered clans, the September settlement envisaged the incorporation of over 70,000 people<sup>144</sup> at a time when the Cape's total population was estimated at 150,834.<sup>145</sup>

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<sup>142</sup>Ibid., pp.183-4.

<sup>143</sup>P.P., 1836, XXXIX, (279), pp.109-111, Glenelg to D'Urban, 17 February, 1836.

<sup>144</sup>1835 census, P.P., 1837, XLIII, (503), p.9, Notice, 27 January, 1836.

<sup>145</sup>C.G.H.B.B., 1835, p.130, Population Return.

D'Urban merely informed the Colonial Office in his despatch of 7 November, 1835,<sup>146</sup> that further to his despatches of 19 June, 1835,<sup>147</sup> to Aberdeen and his private letter to Hay of 4 September, 1835 - in the latter of which he had declared the enemy had suffered greatly and had at length made "overtures of submission and of supplication to become His Majesty's subjects in certain portions of the new province, which I hope may enable me to bring a negotiation now pending to the conclusion which I desire"<sup>148</sup> - treaties of peace had been concluded which he considered satisfactory "with regard to their present effects and to their future prospects." In the sixth enclosure<sup>149</sup> to his 7 November despatch, D'Urban expressed the view that the terms of the September treaties were

in conformity with those held out to them in the Governor's overtures of the 12th of May but with a little extension as to numbers so to be entertained, arising from the supplication of these people now, their expressed contrition, and their (however justly deserved) sufferings. 150

D'Urban compounded his error in failing to inform the Colonial Office of the new direction of his frontier policy by declaring that with a loss of 4,000 warriors, 60,000 cattle, almost all their goats, and the destruction of their huts, gardens and corn fields, the Xhosa had been

chastised not extremely but sufficiently and will, I think, have such a salutary recollection of what they suffered, as to prevent for a long time their entertaining a desire to renew the outrages which had brought this infliction upon them. 151

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<sup>146</sup>P.P., 1836, XXXIX, (279), pp.86-108, D'Urban to Glenelg, 7 November, 1835.

<sup>147</sup>Ibid., pp.15-58, D'Urban to Aberdeen, 19 June, 1835.

<sup>148</sup>Ibid., pp.75-6, D'Urban to Hay, 4 September, 1835.

<sup>149</sup>Ibid., pp.102-3, (Confidential) 'Notes upon the Treaties of the 17th September, 1835, with the Native Tribes; showing the grounds upon which they have been framed, and the prospects which they may be expected to realize.' Dated 17 September, 1835, Fort Willshire, and signed 'B.D.'

<sup>150</sup>Ibid., p.102.

<sup>151</sup>Ibid., p.89, D'Urban to Glenelg, 7 November, 1835.  
(My emphasis.)

D'Urban's announcement of the further "trifling" annexation of a square of territory north of the Stormberg Mountains<sup>152</sup> was hardly calculated to appeal to either the Colonial Office or the Treasury. The reason D'Urban gave for this annexation was that the area was uninhabited<sup>153</sup> by any tribesmen but frequently used as a trans-frontier grazing ground in times of drought by farmers inhabiting the north-eastern part of the district of Somerset. These farmers had petitioned that this area be ceded to the Colony, and that they be allowed locations therein, a move D'Urban considered very beneficial to the Colony's public interests.

The Governor further weakened his case for his September settlement by his failure to inform Beresford and Cloete of the essential differences contained in the treaties; they only discovered this through indirect means.

The reason for D'Urban's failure to make the distinction between his May and September policies is not clear. In September, 1835, he was probably still unaware of the degree of opposition his May policy had aroused in England. Moreover, his despatch of 19 June, 1835, had confidently indicated stability could be achieved by means of that policy of extermination. It would therefore be natural, if irresponsible, for D'Urban to be unwilling to emphasize the essentially different policy he had been forced to adopt by his inability to expel the resisting Xhosa. He declared to Smith in the letter of 21 August, 1835, circumstances had compelled him to trample underfoot some of his preconceived opinions and sacrifice some of his prejudices.<sup>154</sup>

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<sup>152</sup>P.P., 1836, XXXIX, (279), pp.105-6, by a proclamation of the Governor defining the north-eastern boundary "a line drawn from the...source of the Kye River in the Stormberg range of mountains, to the source of the Kraai River, on the northern side of the same range of mountains; thence down the left bank of the Kraai, to its confluence with the Orange River; and thence down the latter until it joins the Stormberg River..." Dated Grahamstown, 14 October, 1835. See Map 6.

<sup>153</sup>This was not strictly accurate. The Thembu had gradually settled in the area after 1825. See E.J.C. Wagenaar, 'A Forgotten Frontier Zone: Settlements and Reactions in the Stormberg Area between 1820-1860', pp.27-61.

<sup>154</sup>D'Urban to Smith, 21 August, 1835, quoted in Macmillan, Bantu, Boer and Briton (1963 edit.), pp.154-5.

Unfortunately for later events those same circumstances did not compel him to adopt a more open attitude to the Colonial Office at this crucial period. It is still a moot point as to whether a timely despatch from D'Urban could have altered the Colonial Office's attitude to the annexation. Nevertheless, D'Urban's failure to clarify the situation at this stage and his long delayed despatch of 9 June, 1836, were personally disastrous.

One of the themes of this thesis has been an attempt to show that the policy of appointing soldiers as Governors of the Cape created tensions for the Governor, and sometimes a dichotomy of view between that Governor as the Commander-in-Chief of His Majesty's forces at the Cape and a civilian administration in Britain. Glenelg's civilian abhorrence of the measures D'Urban and Smith had employed in an attempt to break the resistance of the Xhosa, and Smith's impassioned reply to it were an indication of this divergence of opinion.<sup>155</sup> Closely connected with this was the leit-motiv of military revenge against the Xhosa. Glenelg struck this chord in his despatch of 26 December, 1835, and persistently returned to it until his despatch of 1 May, 1837, finally vindicated the Governors' handling of the war. Historians of such diverse opinions as Theal<sup>156</sup> and Macmillan<sup>157</sup> have picked it up, and an explanation of this leit-motiv is central to an understanding, however partial, of D'Urban's attitude in the post-1835 period.

Although D'Urban and Smith denied being motivated by anything other than devotion to duty, the language used by both men certainly lent weight to the view of a system of military revenge, or at least a heavy-handed approach. Smith in a letter to D'Urban dated 29 January, 1835, quite clearly declared:

the day of just, although awful retribution, I trust is at hand, when those murderous, relentless and remorseless savages will be taught the power of the British nation, and the determination of your

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<sup>155</sup>See pp.217-20.

<sup>156</sup>For example, Theal, Vol. II, p.21.

<sup>157</sup>For example, Macmillan, Bantu, Boer and Briton (1963 edit.), pp.129-53.

Excellency to avenge the murders, incendiarisms and robberies of the peaceful inhabitants of this once fertile, happy and most flourishing district... 158

Smith was notorious for his extravagant turn of phrase, yet even the more stolid and less ostentatious Sir Benjamin could talk of the "justice of the cause which it has been my indispensable duty to avenge",<sup>159</sup> yet at the same time he declared this duty had been discharged in accordance with the principles of mercy.

Much of the revenge orientated phraseology used by D'Urban and Smith seems to have been sabre-rattling. In one of his more jocular moments, Smith described the war as a kind of "Smithfield market cattle driving", declaring "you gallop in and half by force, half by stratagem, pounce upon [the Kaffirs] wherever you find them, frighten their wives, burn their homes, lift their cattle, and then return home in triumph."<sup>160</sup> Moreover, Stockenstrom considered D'Urban's estimate of 40,000 warriors killed highly inflated, and that in fact not more than half that number had been killed.<sup>161</sup> Only in relation to the death of Hintsa, does the sabre-rattling assume a sinister aspect.

The death and mutilation of Hintsa's body has been the centre of much controversy, and at least one historian is of opinion that the circumstances of the Xhosa Paramount's death were instrumental in determining the harsh attitude of the British government, and particularly, Glenelg, to D'Urban's settlement.<sup>162</sup> D'Urban was aware of the potential explosiveness of the event, for in his despatch of 19 June, 1835, he declared that he would rather Hintsa had not been killed as he feared that it would unfairly "be made a handle of by a

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<sup>158</sup>P.P., 1836, XXXIX, (279), pp.7-8, Smith to D'Urban, 29 January, 1835.

<sup>159</sup>P.P., 1836, XXXIX, (279), p.22, D'Urban to Aberdeen, 19 June, 1835.

<sup>160</sup>Quoted in Cory, Vol. III, p.130.

<sup>161</sup>Hutton (ed.), Autobiography of Sir Andries Stockenstrom, Vol. II, p.328.

<sup>162</sup>Pretorius, 'The British Humanitarians and the Cape Eastern Frontier 1834-6', p.315.

party at home."<sup>163</sup> Nevertheless, in the same despatch he accused Hintsa of bad faith and described him as "a treacherous, ungrateful and cunning savage" who "richly deserved the fate he brought upon himself",<sup>164</sup> and the prime mover of the war against the Colony.

Modern scholarship has indicated that Smith was not overly scrupulous<sup>165</sup> in his treatment of Hintsa as Xhosa Paramount and regarded him more as a means of ending an expensive war and securing the 'return' of 50,000 colonial cattle, than as a defeated chief who was to be accorded the requisite honours. Smith, it seems, wore Hintsa down by a method of 'hot and cold' interrogation,<sup>166</sup> alternating kindness with threats, and it is quite possible this drove the Xhosa Paramount to despair for his life, and goaded him to attempt his fatal escape, resulting in the mutilation of his body.

Glenelg clearly disapproved of the treatment of Hintsa, and in his despatch of 26 December he declared his dissatisfaction "that this chieftain was the legitimate object of your military operations, or that his death admits of any satisfactory justification."<sup>167</sup> Glenelg received much information concerning Hintsa's death from Buxton, who had received it from Philip at the Cape. Philip's main informants had been a Dr Ambrose Campbell of Grahamstown, and the Rev. J. Ross of the Glasgow Missionary Society. They in turn were repeating what they had heard, and the lack of first hand evidence was disturbing. The whole affair was particularly displeasing and Glenelg put in motion a Court of Inquiry to determine two things in particular: whether Hintsa's body had in fact been mutilated, and if so, who was responsible; and secondly, to discover whether Hintsa had been shot while incapacitated beyond further resistance, and pleading for mercy.

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<sup>163</sup>D'Urban to Aberdeen, 19 June, 1835, op.cit., p.21.

<sup>164</sup>Ibid., p.21.

<sup>165</sup>See, for example, Pretorius, op.cit., p.202 and the series of articles by Prof. C.J. Uys, 'Die moord op Hintza', *Die Huisgenoot*, February-March, 1943. Pretorius indicated that D'Urban seems to have acted in a principled fashion, but largely distanced himself from Hintsa, and used Smith as a line of communication. But it seems clear he hoped for tangible results from Smith's unorthodox methods.

<sup>166</sup>Pretorius, op.cit., p.200.

<sup>167</sup>P.P., 1836, XXXIX, (279), p.66, Glenelg to D'Urban, 26 December, 1835.

The Court of Inquiry met during August and September, 1836, at Fort Willshire and under the presidency of Lieut.-Colonel Hare.<sup>168</sup>

Pretorius has devoted considerable attention to the proceedings of the Court and the evidence and behaviour of the witnesses. He concluded by indicating the unsatisfactory role played by Smith in the affair, the blatant contradictions apparent between his official report and his evidence before the Court, and the latent pressure he exerted on witnesses, both by his presence in the Court, which was held openly, and his probable 'coaching'<sup>169</sup> of others so that their evidence would support the official version. The official version of Hints's death was vague in some respects, particularly in regard to why it had been considered necessary to prevent Hints's escape by physical and terminal violence if in fact he was a hostage guiding the colonial forces to gather the agreed number of 50,000 cattle, as D'Urban and Smith claimed, and not a prisoner as the humanitarians both at the Cape and in Britain claimed. The official version was beyond recall as it had already been submitted to the Colonial Office. At the Court of Inquiry it therefore had to be shown as essentially correct and accurate.

Pretorius adduced much to support his assertion that Smith was an unreliable witness and an inhibiting influence at the Court of Inquiry. In particular it is interesting to note that he tried to influence D'Urban's choice of the officers who were to constitute the Court, and was particularly insistent in this regard.<sup>170</sup> D'Urban, however, ignored Smith's suggestions, and appointed it as he believed fit, an indication that the Governor was not necessarily "'n swakkeling...wat hom aan die neus laat lei het deur sy onmenskindige, impulsiewe 'Chief of Staff' Kolonel (later Sir) Harry Smith..."<sup>171</sup>

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<sup>168</sup>Lieut.-Colonel John Hare (? - 1846), appointed acting Lieutenant-Governor of the Eastern Province in August, 1838, during Stockenstrom's absence. In September, 1839, he was confirmed in that position, and held it until September, 1846, shortly before his death.

<sup>169</sup>See Pretorius, op.cit., p.255.

<sup>170</sup>C.A., A519, Vol. 4, Smith to D'Urban, 4 July, 1836.

<sup>171</sup>P.J. Uys, op.cit., Die Huisgenoot, 19 February, 1943, no.1091, p.7.

The Court of Inquiry concluded at the end of its deliberations that it had been proved Hints's ears had been cut off, but regretted "in the midst of so much conflicting and contradictory evidence which mark these proceedings they are unable to fix this foul act on any person in particular."<sup>172</sup> The Court was only one of inquiry, and it was powerless to force a person to talk. The Court was also of the opinion that there was no evidence of Hints's having cried for mercy. But both Uys and Pretorius presented the written evidence of the diary of Smith's interpreter, Theopolis Shepstone, discovered one hundred years after Hints's death, to refute the Court's conclusion in this regard. Shepstone wrote shortly after Hints's death and at a time when the considerable political significance of the event had not been fully realised, that Hints had died "crying for mercy, although he tried to the very last to kill Mr Southey."<sup>173</sup>

The Court also vindicated Smith, declaring that he had had no knowledge until some time after the event that Hints's body had been mutilated, and that from beginning to end the Paramount had been treated with kindness. Although Pretorius discerned a certain degree of protection afforded Smith by the Court in this regard, he described its report as "a remarkable document" which illustrated "the extraordinary measure of independence of judgement of the Court as a body...the evidence of all the witnesses was not simply accepted at face value, but a thorough study must have been made of their motives."<sup>174</sup> In other words the Court of Inquiry had not been constituted to white-wash the actions of the military. But in the face of conflicting evidence and with limited powers, it could hardly condemn anyone, and the benefit of the doubt had to be given. By 1837, the death of Hints was no longer of any great political significance. Three months after receiving the Opinion of the Court of Inquiry in February, 1837, Glenelg informed D'Urban in his despatch of 1 May:

It is I think, now established, that, if not the fomenter of the invasion, that Chief was at least engaged in secret confederacy with its authors, and

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<sup>172</sup>Quoted in Pretorius, *op.cit.*, p.281.

<sup>173</sup>*Ibid.*, pp.280-1.

<sup>174</sup>*Ibid.*, p.275.

was availing himself of such advantages as it offered him. On himself, therefore, rests the responsibility for the calamity in which he and his people were involved by the contest. <sup>175</sup>

Pretorius was probably correct in his opinion that Glenelg did not thereby renounce the evidence of his humanitarian correspondents. By May, 1837, events had moved on, and the issue of Hintsa's death was no longer politically important. D'Urban was to be dismissed as Governor and Glenelg "could afford to be generous in other, minor matters."<sup>176</sup> The historical controversy continues, but the Xhosa certainly never forgot the way in which Hintsa had died.<sup>177</sup>

Both D'Urban and Smith were hardened soldiers, both had campaigned continuously in the Iberian Peninsula, and upon their shoulders rested the safety and security of the Colony against a highly mobile and numerous enemy, capable of great destruction, if lacking in modern weapons and sophisticated military organisation. In his letter of 17 April, 1836, to D'Urban, Smith made the interesting observation: "The British force in Caffreland was situated precisely amongst guerillas like the French army in Spain."<sup>178</sup> Many armies placed in the predicament of fighting a shadowy and elusive enemy find the experience unnerving, and retaliate with a harshness real or apparent which arises from a very real fear, and which is greater because of that fear. So too with their commanders. D'Urban was further placed in the impossible position of trying to wage the war as economically as possible. His despatches in early 1835 were heavily laced with descriptions of the piecemeal measures<sup>179</sup> at economy he had taken. Wary of an elusive

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<sup>175</sup>C.A., G.H. 1/114, pp.21-2, Glenelg to D'Urban, 1 May, 1837.

<sup>176</sup>Pretorius, op.cit., p.283.

<sup>177</sup>This was again confirmed at the interview with Chief Maqoma on 7 May, 1980, who declared that there was reason to believe Hintsa's ears had been taken to England. Whether fact or fallacy, the perpetuation of this story is an indication of strength of Xhosa feeling surrounding the whole issue.

<sup>178</sup>P.P., 1837, XLIII, (503), p.33, Smith to D'Urban, 17 April, 1836, Enclosure no.1, in D'Urban to Glenelg, 19 September, 1836.

<sup>179</sup>See, for example, P.P., 1836, XXXIX, (279), p.4, D'Urban to Spring Rice, 27 February, 1835.

enemy and overburdened by economic considerations in the wake of the despatch of 31 December, 1833, directing retrenchment, and with a Colonial Treasury rapidly approaching bankruptcy, it is quite possible that D'Urban over-reacted in his language with a ferocity which seems largely to have been unnatural to his character, and to a campaign, with the exception of Hints's death and mutilation, which seems to have been largely devoid of unnecessary brutality.

D'Urban's military operations were not aimed indiscriminately against the Xhosa. As early as March, 1835, the date of his offensive across the Keiskamma River, he was distinguishing friend from foe.<sup>180</sup> Women and children were well treated, and D'Urban was at pains in his May policy to accord consideration to the tribes who had not engaged in the war.<sup>181</sup>

In conclusion, the evidence indicates that although D'Urban intended to introduce some form of treaty system with the Xhosa in 1834, he was not averse to using the traditional methods of expulsion and reprisal to secure the frontier militarily prior to his arrival. Unavoidably delayed in Cape Town, he put his faith in his subordinates to carry out this policy together with the more enlightened one of forbearance, while at the same time utilising the good offices of Philip to inform the chiefs that change was coming.

The outbreak of war on 21 December, 1834, not only took the Governor by surprise, but also the military on the frontier, and it is probable that the lack of effective resistance spurred the Xhosa on to further excesses.

Faced with a dangerous situation, D'Urban had sought to win a quick and cheap war by simple force of arms. His May policy was the precipitate result of this desire. Continued Xhosa resistance and

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<sup>180</sup>See P.P., 1836, XXXIX, (279), p.11, D'Urban to the Secretary of State, 19 March, 1835, enumerated his opponents as: "The tribes in open and avowed hostility to the colony, and who have joined in the invasion of it, are those of Tyalie, Macomo, Bothman, Dushanie, Umhala, T'Slambie and some minor ones."

<sup>181</sup>P.P., 1836, XXXIX, (279), p.47, 'Memorandum for the Information and Guidance of Major Cox...', 12 May, 1835.

rising costs forced him to modify his draconian policy, and consequently to develop the September settlement. Although a bold attempt at settling once and for all the problem of the eastern frontier, the settlement was essentially a piecemeal and experimental expedient enforced by Smith. It also violated both the letter and the spirit of D'Urban's Instructions, and offended the humanitarians in England. For some reason, the origins of which can only be speculated upon, the Governor failed timeously to highlight its enlightened aspects. Hence the replacement of D'Urban's frontier settlement by that associated with the name of Andries Stockenstrom who was appointed Lieutenant-Governor of the Eastern Districts in February, 1836,<sup>182</sup> and assumed office in August of that year.

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<sup>182</sup>C.A., G.H. 1/108, Glenelg to Stockenstrom, 5 February, 1836.

CHAPTER SEVEN

THE POST 1835 SETTLEMENT :

THE ERA OF STOCKENSTROM AND THE GREAT TREK

The Lieutenant-Governorship of Andries Stockenstrom between 1836-9 was not a success. He was the unpopular agent of an unpopular policy, and his irascible temper coupled with a lack of tact compounded an already tense situation on the frontier. Yet it is a moot point as to how far Stockenstrom's blunt and uncompromising attitude contributed towards the mass exodus of Dutch colonists then in progress from the Eastern Districts.

The 'kommissie' treks of 1834 certainly indicated that there were restless and dissatisfied elements on the frontier who sought greener pastures even further removed from a remote British government with its ideas of efficient administrative control and liberal race relations. Certainly this was the tone of one chord struck by Piet Retief in his Manifesto: "We quit this Colony under the full assurance that the English Government...will allow us to govern ourselves without its interference."<sup>1</sup> But as Walker<sup>2</sup> has pointed out, the Trek became the expression of a range of grievances ranging from dissatisfaction over the inefficiencies of the government's Land Department, to the further sense of offence given to the Boer's pride of race and hierarchical view of a society, based on colour, by the process of slave emancipation so soon after Ordinance 50<sup>3</sup> of 1828 had established the principle of equality before the law of all free persons of colour. Yet in a letter to D'Urban dated 26 May, 1837, Lieutenant Henry Warden<sup>4</sup> shed interesting light on the motives of some trekkers. He declared many frontier

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<sup>1</sup>C.L., G.T.J., 2 February, 1837.

<sup>2</sup>Walker, A History of Southern Africa (1972 impression), pp.198-9.

<sup>3</sup>See W.M. Macmillan, The Cape Colour Question: A Historical Survey, pp.211-24.

<sup>4</sup>Henry Douglas Warden (1800-1856) arrived at the Cape in 1819 to begin a career in the Cape Corps, but gave this up in 1846 to become the Resident British Magistrate in Transorangia. Here he founded Bloemfontein. The failure of Smith's Orange River Sovereignty led to Warden's dismissal and disgrace. See D.S.A.B., Vol. I, pp.863-4.

farmers had left "from mere curiosity and to follow their relatives."<sup>5</sup> High ideas and strong grievances did not always prevail, and more mundane motives at times exerted an equal influence.

It is an accepted fact that the war of 1834-5 and the renunciation of Queen Adelaide Province intensified the nature of the Trek. But it is also probable that the conflicts initially delayed the movement, for when the 'kommissie' trek leaders returned in 1835 they found the frontier in turmoil and the colonists concerned more with the needs of their immediate security, than with the prospects in a distant land.

But Stockenstrom's difficult temperament was without doubt of great significance in his tense relationship with D'Urban. Although Glenelg had notified the Governor of the appointment of Stockenstrom as Lieutenant-Governor by a despatch dated 11 February, 1836, D'Urban received no details of the new arrangement or of the extent of Stockenstrom's powers until Stockenstrom himself landed at the Cape in early July, 1836. D'Urban had earlier<sup>6</sup> recommended the appointment of a Lieutenant-Governor for the Eastern Districts if the Colony's administrative centre could not be moved to Uitenhage, but the extent of Stockenstrom's powers must have come as a surprise, for he did not seem to have considered the possibility of a Lieutenant-Governor with powers equal to those of the Governor.

In the preamble to his Instructions to Stockenstrom, Glenelg expressed himself unconvinced of the security D'Urban's settlement had achieved. The line of thought behind Glenelg's despatch was clear. A Governor in Cape Town was too far away to implement a coherent frontier policy, particularly as he relied on second hand opinions and experiences to form such a policy. At so far a distance the frontier authorities had been too loosely controlled until finally the functions of civil administration in relation with the trans-frontier tribes had fallen permanently under martial law with "the administration of justice being left to the Commandant and his soldiers."<sup>7</sup> Such a state of affairs was unacceptable.

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<sup>5</sup>C.A., A519, Vol. 6, pp.195-6, Warden to D'Urban, 26 May, 1837.

<sup>6</sup>C.A., A519, Vol. 20, pp.81-5, D'Urban to Aberdeen, 26 June, 1835.

<sup>7</sup>C.A., G.H. 1/108, p.82, Glenelg to Stockenstrom, 5 February, 1836.

Stockenstrom was thus to assume the position of Lieutenant-Governor, first recommended by the Commissioners of Eastern Enquiry in 1826, in the Districts of Albany, Somerset, Uitenhage and Graaff-Reinet. In these Districts he was to execute the executive powers that D'Urban exercised throughout the whole Colony, restore civil administration and establish the foundations of a permanent policy with the Xhosa which the local authorities would not be able to subvert.

The Secretary of State declared his realisation of the impossibility of forming at a distance in England the particulars and regulations of such a system and Stockenstrom was to implement a policy based on the principles contained in Glenelg's despatch of 26 December, 1835. In particular the Lieutenant-Governor was instructed to form, consolidate and effect a system of treaties with the trans-frontier tribes, a system which Glenelg considered would "ensure the maintenance of peace, good order, and strict justice in all the intercourse and relations between the inhabitants of European and African origin on descent on either side of the Eastern Frontier."<sup>8</sup> In the first instance the ratification of the treaties was to be reserved to the Governor in Council, and Stockenstrom was enjoined not to negotiate those treaties until he had received further instructions from the Colonial Office. Those instructions would in turn depend upon D'Urban's "final report", which Glenelg declared he had requested from the Governor in his despatch of 26 December, 1835. Stockenstrom in the meanwhile was to administer the law as it actually stood, which in effect meant maintaining D'Urban's settlement.

Glenelg was particularly vague in his definition of the Lieutenant-Governor's powers outside those necessary for establishing the structure of the treaty system. Instead Stockenstrom was referred to copies of D'Urban's Commission and Instructions, and to the "General laws and usages of the Settlement" to ascertain his executive powers, and to the Standing Military Instructions, for a definition of his duties and authority and those of the Officer Commanding His Majesty's troops in the Eastern Districts.

The Secretary of State was concerned not to constrain or hamper his appointee's important task on the frontier by defining the limits

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<sup>8</sup>Ibid., p.89.

of his authority too clearly vis-à-vis those of the Governor. He seems to have considered that the taxing situation on the frontier required the Lieutenant-Governor to possess a degree of flexibility and initiative in his actions. But the lack of such a definition from the Crown was a two-edged weapon. In Stockenstrom's hands it could be used perhaps to cut the Gordian knot of frontier affairs, but alternately it could, and was, used against him.

In certain instances Stockenstrom's powers were clearly defined, and certain facts underlined. But even the definition of these powers indicated a clear tension in the relative positions of Governor and Lieutenant-Governor which even the most patient and benign of officers would have found trying to implement in the circumstances of the Cape and its eastern frontier in 1836-7.

Stockenstrom's Commission left the Colony's constitution and judicial system unaltered. But all laws affecting the Eastern Districts passed by the Governor and the Legislative Council were to be transmitted to the Lieutenant-Governor before their enactment, and it was the Governor's duty to read at the Council board, and record in the minutes, any representation Stockenstrom saw fit to make concerning this legislation. Thereafter a copy of the law together with any such representation was to be transmitted to England. Stockenstrom was to supply the annual estimates of the colonial service in his Districts, but all public money voted on that account was to be drawn from the Colonial Treasury in Cape Town by warrants countersigned by the Governor.

The Lieutenant-Governor's correspondence with His Majesty's Government was to be conducted exclusively through the Governor who was also to send the Colonial Office copies of all the correspondence passing between himself and Stockenstrom. The Governor was also to consider the Lieutenant-Governor's recommendations in regard to the distribution of the patronage of all public officers within the Eastern Districts, and in turn he was to propose to the Crown any such recommendations. But all public officers, civil and military, in the Eastern Districts were to correspond with Stockenstrom only, and obey his lawful commands. Yet the Lieutenant-Governor was instructed to apply to the Governor and not the Secretary of State "for such instructions as you may require for your guidance, and to

all his lawful instructions, whether solicited by yourself, or not, you will yield implicit obedience."<sup>9</sup> As D'Urban noted in the margin this provision seemed to clash with the definition of Stockenstrom's executive powers in the Eastern Districts as comparable with those the Governor exercised "throughout the whole colony." This ambivalence in Stockenstrom's Instructions was soon the source of much disagreement between D'Urban and his Lieutenant-Governor.

The receipt of Stockenstrom's Instructions also shattered D'Urban's illusion<sup>10</sup> that the news of his September policy - contained in his despatch of 7 November, 1835, and sent before his receipt of the despatch of 26 December - was sufficient not only to change the British government's negative view of his frontier settlement, but also to answer Glenelg's request in the last paragraph of his despatch of 26 December for a report "containing as full an explanation as you can supply on every topic on which I have stated doubts and difficulties."<sup>11</sup> A pencilled comment in D'Urban's hand on the copy of this despatch in the Cape Archives at this point read: "I have done this. What those may do who alter it time will show."<sup>12</sup> Again this seems to indicate that D'Urban believed the 7 November despatch was a sufficient answer to Glenelg's despatch of 26 December, 1835.

Yet in the despatch dated 23 March, 1836, in which he acknowledged receipt<sup>13</sup> of that despatch, D'Urban clearly stated:

I will lose no time in reporting upon the several points whereon your Lordship has demanded further explanation, and I will here abstain from any other

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<sup>9</sup>C.A., G.H. 1/108, p.97, Glenelg to Stockenstrom, 5 February, 1836.

<sup>10</sup>This seems to be substantiated by a note in D'Urban's handwriting in the margin of his copy of Glenelg's Instructions to Stockenstrom of 5 February, 1836. In regard to Glenelg's declaration that although the Crown's disposition was to abandon Queen Adelaide Province, the final decision was suspended until a "further report" had been received from the Governor, D'Urban had written "That Report had been received." Glenelg to Stockenstrom, 5 February, 1836, op.cit., p.79.

<sup>11</sup>P.P., 1836, XXXIX, (279), p.73, Glenelg to D'Urban, 26 December, 1836.

<sup>12</sup>C.A., G.H. 1/107, Glenelg to D'Urban, 26 December, 1835.

<sup>13</sup>On 21 March, 1836; see C.A., G.H. 1/107, *ibid.*, p.10.

comment or remark than to express my deep regret that the measures which I had felt it my imperative duty to adopt, have been disapproved and are to be rescinded.

He continued:

Nevertheless, it is my duty to obey the commands which your Lordship has conveyed to me, and I shall endeavour to do so with as little mischief to the Colony and to all concerned as may be compatible with that obedience, 'assuming to myself' only 'the responsibility of suspending the execution of the Instructions' before me (as empowered to do by your Lordship) until by the arrival of your Lordship's next despatch, I shall have ascertained whether the knowledge of my ulterior measures which had not reached you at the time of writing your last despatch of 26 December, 1835, may have occasioned any change in your Lordship's views and determination.<sup>14</sup>

D'Urban was thus fully aware that Glenelg's despatch required an answer. But before he embarked upon that task and despite assurances of an immediate reply he was obviously inclined to await events and in particular Glenelg's response to his despatch of 7 November, 1835. Glenelg in the interim awaited D'Urban's report on the questions raised in his December despatch, as his Instructions to Stockenström clearly indicated. He had, moreover, answered D'Urban's despatch of 7 November, 1835, by his dated 17 February, 1836.<sup>15</sup> In this despatch Glenelg dismissed D'Urban's September treaties as scarcely demanding "a very serious attention", as the Xhosa could not be made subjects of the Crown by treaty and only the King could confer that status. Moreover, Glenelg again declared his opposition to the granting of land to whites in the new territory, for he believed that even if the area was added to the Colony, it had to be reserved exclusively for Xhosa occupation. The deliberations concerning the inclusion of the Stormberg area within the Colony, and the expense of civil administration in the new Province - for which, Glenelg noted, D'Urban had not indicated where the money was to come - were to be postponed until the Lieutenant-Governor arrived. In conclusion, Glenelg again deplored the use of what he considered excessive military force in the defeat of the tribes, and again requested an explanation for the extensive losses D'Urban

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<sup>14</sup>C.A., A519, Vol. 20, pp.223-6, D'Urban to Glenelg, 23 March, 1836.

<sup>15</sup>P.P., 1836, XXXIX, (279), p.110, Glenelg to D'Urban, 17 February, 1836.

claimed to have inflicted on the Xhosa.

In a letter to Sir Herbert Taylor<sup>16</sup> as late as 7 May, 1836, D'Urban was still considering a reply to Glenelg's despatch. He wrote:

It requires, I acknowledge it, some forbearance to reply to certain parts of his Lordship's voluminous despatch, and to the imputations it contains upon my measures, upon those of good and faithful officers employed under me, and to bear with its injustice to the unfortunate Colonists of the Border, and its disbelief of their cruel sufferings, overwhelming as they have been unmerited...Doubt not but I will satisfactorily refute the aspersions which his Lordship, adopting the reasoning and assuming the statements of informers whom he avows to be anonymous, has so unhesitatingly cast upon us all. <sup>17</sup>

D'Urban was clearly angered not only by the Secretary of State's attitude, but also as a result of his belief that Glenelg had used sources in the compilation of his despatch of 26 December other than official ones. As Roxborough has shown, Glenelg used such sources sparingly and with care.<sup>18</sup> D'Urban's anger was thus misdirected.

At the beginning of June, 1836, D'Urban began the reply to Glenelg he had meditated for so long. In coldly measured terms he accused the Secretary of State of having disregarded his despatches, in preference to the information of Philip and the South African Commercial Advertiser, and of having neglected the sufferings of the colonists in his overly great concern for the Xhosa. D'Urban also charged Philip with having tampered dangerously with Xhosa discontent prior to the outbreak of war, and enclosed a series of letters<sup>19</sup> from Philip which he believed supported his assertion that the London Missionary Society Superintendent had in fact agreed to act as the Governor's confidential agent in the immediate pre-war period. In D'Urban's opinion, therefore, the

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<sup>16</sup>Sir Herbert Taylor (1775-1839), private secretary to William IV. See D.N.B., Vol. LV, pp.413-4.

<sup>17</sup>C.A., A519, Vol. 20, pp.233-9, D'Urban to Taylor, 7 May, 1836.

<sup>18</sup>Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', pp.140-60.

<sup>19</sup>P.P., 1837, XLIII, (503), pp.163-9, Enclosures 5 to 5(g) in D'Urban to Glenelg, 9 June, 1836.

Xhosa had needlessly gone to war when quite clearly overtures for a new frontier policy were being made.

With a stubbornness which underlay that slow caution Smith had ridiculed D'Urban then defended his use of the phrase "irreclaimable savages" in his Proclamation of 10 May, 1835. He declared the phrase had conveyed his mature opinion and that he would neither modify nor retract it, since he believed its veracity had been borne out by the unprovoked devastation of the Eastern Districts. As a British soldier, D'Urban considered that he had not been excited to anger by the campaign he had been duty bound to wage, but he acknowledged a deep feeling of "commiseration for my unfortunate fellow-subjects of the colonial border."<sup>20</sup>

With regard to Glenelg's criticism of his handling of the war, the Governor pointed out that he commanded only 400 regular British troops in the division which had invaded the trans-Keiskamma territories, while a further 485 regulars remained to defend the border districts. As a result the bulk of the colonial forces had been made up of Khoikhoi levies and mounted farmers. D'Urban described them as excellent men, but he considered it would have been "in vain to expect any of the properties of combination belonging to regular troops and necessary for any accuracy of operation."<sup>21</sup> In opposition to his force, D'Urban estimated there were 40,000 warriors and he declared with feeling: "Woe to the colony if I had met with either check or disaster", for the Xhosa, light-headed with success and spoils would have carried devastation further into the Colony. With the threat of further incursions, D'Urban considered his careful preparations were militarily sound. He again denied that his military operations were carried out as acts of vengeance and retribution but considered they were necessary to put down in the trans-Keiskamma territory all groups hostile to the Colony. As these bands held out obstinately and "still meditated more serious inroads...there was no alternative but to reduce them to submission, which, as their retreat was in an almost impervious country, as they could nowhere be found in a body and were, so to say, personally intangible, could be effected in no other way than by the

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<sup>20</sup>Ibid., p.60.

<sup>21</sup>Ibid., p.63.

measures resorted to against the country..."<sup>22</sup> D'Urban pointed out that laying waste the means of subsistence when all other tactics had failed was not unusual in European warfare, as Glenelg had declared it to be in his December despatch.

Concerning the treatment of Hintsá at British headquarters and his subsequent death, D'Urban reaffirmed the correctness of the facts in his despatch of 19 June, 1835, but declined to go into detail over the reported mutilation of Hintsá's body, as he noted a court of inquiry was to be set up. Nevertheless, he believed that had he not dealt militarily with Hintsá and the Gcalekas as he had, he would have been unable to settle the frontier. D'Urban also defended his freeing of the Mfengu and declared with telling cynicism against the method of slave compensation at the Cape:

...the Fingoes were emancipated at the expense of the enemy and the slaves of the British colonies at that of the nation and of their owners, the nation contributing a compensation equal to one-third of their value, the owners losing the other two-thirds, with the collateral risk, besides, of the annihilation of the colonies themselves. <sup>23</sup>

He continued:

...if we estimate the benefit conferred by the worse or better state of slavery from which the respective parties have been freed, then it is incalculably greater to the Fingoes than to the British slaves, since the latter were in so happy a condition that it may be doubted whether they had gained aught by the change and the former were living in a state of degradation and oppression difficult to describe, and from which their liberation has been to them the greatest possible blessing. <sup>24</sup>

D'Urban's reason for laying claim to this emancipation was, he declared, because he considered Glenelg had allowed him so little credit for his actions that "in common justice to myself, I am compelled to lay claim to that which I hold to be unquestionably mine."<sup>25</sup> With so much of

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<sup>22</sup>Ibid., p.65.

<sup>23</sup>Ibid., p.66.

<sup>24</sup>Ibid., pp.66-7. It is clear that D'Urban misunderstood the relationship between the Mfengu chiefs and their Xhosa masters. See pp. 126-7.

<sup>25</sup>Ibid., p.67.

his settlement rejected, D'Urban sought to salvage something which seemed to have succeeded. His desire to equate the "freeing" of the Mfengu with slave emancipation was rejected, and later during the era of the treaty system the close proximity of Mfengu and Xhosa in the old ceded territory created friction. D'Urban's chagrin at having his settlement overthrown by the greater force at the disposal of Glenelg, was clearly indicated in the phrase: "Your Lordship in England, and I upon the spot, have seen all these African matters under different views, and it would be now useless to pursue the subject further."<sup>26</sup> D'Urban announced his intention to await the Lieutenant-Governor's arrival before he implemented the abandonment of Queen Adelaide Province and noted sourly that there would be little need to announce it publicly in the Colony, as the news was already known, probably through the medium of the London Missionary Society.

The military considerations of D'Urban's system were clearly underlined when he declared that it was his experience

as well of the numbers and indomitable nature, as of the improved warlike combinations, of these savages, that more forcibly induced me to make the treaties into which I entered with them in September, 1835, and in which, by getting the power of arranging their locations and distribution and adapting them to the military posts, I established a system whereby no general combination could ever have taken place for insurrection or hostile purposes without being known beforehand, and exposed to be dealt with in detail, and arrested in limine... <sup>27</sup>

In conclusion D'Urban declared with sincerity and a keen appraisal of the problems of his four year administration that

in the midst of very arduous circumstances (which I had in no respect occasioned, since the previous border policy was none of mine), with very inefficient means, and unassisted by His Majesty's Government, either with men, money or instructions, I have served His Majesty conscientiously, faithfully and successfully.

He added that he had no doubt that had his measures been adopted, colonists and tribesmen alike would have prospered. In fairness to himself he again considered it necessary solemnly to protest

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<sup>26</sup>Ibid., p.71.

<sup>27</sup>Ibid., p.70.

against the unfairness of the general tenor of these your Lordship's despatches, in which exparte statements avowedly derived from anonymous information accompanied by sweeping denunciations of censure, obviously written for publication and indeed published, must have had a direct tendency to cast odium (I affirm unmerited) upon me, and upon His Majesty's other officers who have acted under me; thus exposing us to be prejudiced in the public opinion and in that opinion to be condemned unheard. 28

D'Urban ended his despatch with the provocative statement:

...I feel assured that His Majesty's Secretary of State, writing in His Majesty's name (unless having His Majesty's express commands to that effect, which I venture to trust has not been the case in this instance) cannot have been justified in such a course of proceeding. 29

For a Governor to censure his political superior in such terms was unpardonable.

From his reference to the Lieutenant-Governor's projected arrival, it seems probable that D'Urban had conceived of this despatch at least in outline, before Stockenstrom's arrival on 3 July, 1836. Almost a year after D'Urban had first acknowledged receipt and the necessity to answer Glenelg's queries raised in the 26 December despatch, the Colonial Office received the Governor's reply. The length of time which had elapsed in the interim emphasised the fact that the despatch was no spontaneous outburst of pent-up emotions but a coldly considered defence of the Colonial government's frontier policy since the outbreak of the war. The despatch left Glenelg with little choice but to dismiss D'Urban, for it was now obvious that if he remained, the new treaty system would not have the full backing of the Colonial government. Moreover, such gross insubordination could not be overlooked. William IV was reportedly appalled at the tone of D'Urban's despatch, and Sir Herbert Taylor wrote and gently rebuked D'Urban:

I must freely own, my dear D'Urban, with the candour of an old and sincere friend, that the tone and expression of that despatch surprised me and I could with difficulty believe that you could have been persuaded to adopt such in any communication, much less on addressing to such

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<sup>28</sup>Ibid., p.71.

<sup>29</sup>Ibid.

high official authority. I grant that you had been most provoked, that your measures had been unjustly dealt with, and that you had ample reason to feel sore and disappointed, but all this could not excuse language so injurious and offensive, especially as it was not a hasty effusion, but the result of deliberate reflection and consideration.<sup>30</sup>

In such circumstances it seems the height of folly that Glenelg should have neglected to consider the possibility of D'Urban's anger before his appointment of Stockenstrom as Lieutenant-Governor with a mandate to replace D'Urban's settlement with a new treaty system.

Stockenstrom considered D'Urban's reception of him at Cape Town in July as "gentlemanlike and dignified",<sup>31</sup> but a rift soon developed between the two men with their very different views of a sound frontier settlement. On 8 August, 1836, the day after Stockenstrom had left for the frontier, D'Urban repealed martial law in Queen Adelaide Province, thereby making the administration of that Province and the application of Glenelg's instruction to Stockenstrom "to administer the law as it actually stands"<sup>32</sup> a physical impossibility. Even Lieut.-Colonel Smith had admitted earlier that without martial law, the chief government official in the new Province had "no more power or authority to repress evil than any ordinary person by the slow and common Process of the Law."<sup>33</sup>

The question of martial law and its use was a thorny one. Its implementation in times of the gravest emergency meant the suspension of ordinary means of law enforcement and the concentration of all power in the hands of the military and its chief, in effect the Governor. The nature of martial law made it desirable that its duration be as short as possible, for in the interim all matters of a legal nature were held in abeyance or at least subjected to unusual strains. At the Cape D'Urban had only recently promulgated a revised Charter of Justice

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<sup>30</sup>C.A., A519, Vol. 7, pp.73-80, Taylor to D'Urban, 16 August, 1837. (Taylor's emphasis.)

<sup>31</sup>Hutton (ed.), Autobiography of Sir Andries Stockenstrom, Vol. II, p.41.

<sup>32</sup>C.A., G.H. 1/108, pp.93-4, Glenelg to Stockenstrom, 5 February, 1836.

<sup>33</sup>Smith to D'Urban, Confidential, 30 July, 1836, quoted in Galbraith, Reluctant Empire, p.139.

for the Colony on 1 March, 1834, and much legal business in the districts was done during the biannual circuit courts held under the auspices of one of the Judges of the Supreme Court.

In May, 1835, Bell informed D'Urban that the Judges were "sensitive about Martial Law which forces itself into notice when the circuit is considered",<sup>34</sup> and suggested that if martial law was no longer required in the Colony, particularly as a treaty of peace had been negotiated, it should be repealed by a proclamation "dated prior to that for the Circuit." As a result, D'Urban lifted martial law from Graaff-Reinet, George, Beaufort and that part of Uitenhage lying west of the Sunday's River by a proclamation dated 17 June, 1835. It remained in force in Albany, Somerset, Port Elizabeth and its environs until 9 July, 1836.

D'Urban hoped to continue indefinitely the form of martial rule Smith had established in Queen Adelaide for his system depended upon that rule for its existence. Yet the wording of D'Urban's Proclamation of 10 May, 1835, indicated that the new Province was to be incorporated into the Colony. If so, it would then fall under the legal jurisdiction of the Cape Supreme Court and its twice annual circuit courts, for martial law could not be maintained indefinitely within the Colony at a time of declared peace. But there were a number of anomalies in the administration of the Province incompatible with civil rule, and these were underlined by Judge Menzies in a memorandum<sup>35</sup> dated 6 October, 1835.

D'Urban's treaties of 17 September, 1835, had given the Xhosa the status of British subjects, a policy clearly at variance with his Instructions which specifically prohibited him from "proposing or asserting to any law having the effect of naturalising aliens as British subjects."<sup>36</sup> But if the Xhosa were to be regarded as foreigners allowed to reside in the Colony, they would then be subject to the provisions of Ordinance 49, and the transformation of chiefs into tribal

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<sup>34</sup>C.A., A519, Vol. 2, pp.30-2, Bell to D'Urban, 22 May, 1835.

<sup>35</sup>P.P., 1851, XXXVIII, (424), pp.197-9, 'Legal Notes on the Treaty with the Kafirs of 17 September, 1835', dated 6 October, 1835.

<sup>36</sup>C.A., G.H. 1/96, p.33, Instructions, 8 November, 1833, Clause twenty-three.

magistrates proposed under the D'Urban system would then be illegal. The D'Urban system also assumed that a Xhosa magistrate would have no jurisdiction over whites; this would constitute him as an 'inferior' magistrate, and any law which subjected the tribes to his jurisdiction was discriminatory, and again inconsistent with D'Urban's Instructions. The treaties of 17 September, 1835, moreover, made no provision for the restitution by the Xhosa of any property stolen before that date. Yet once the Province was part of the Colony, any colonist who discovered his stolen property in it would be legally entitled to reclaim it, and any colonial Magistrate would necessarily be bound to assist him. In his despatch to Glenelg dated 7 November, 1835, D'Urban had proposed ordinances to "adopt" colonial laws as required. Napier later observed<sup>37</sup> that these ordinances were never prepared. Thus D'Urban was understandably reticent about proposing a formal incorporation of the new Province into the Colony, and this certainly caused friction with the Cape bench. In a letter to the Chief Justice dated 6 February, 1836, the Governor declared:

With reference to my authority under His Majesty's Charter to apportion and divide the Colony into Districts ..... I request to inform your Honor and the Judges of the Supreme Court that I do not see cause, with regard to the Province of Queen Adelaide, for making any such division of the Colony, as to make that Province a District, or to comprehend it with any other District of the Colony, for the purpose of establishing any circuit court in, or for, that Province.<sup>38</sup>

D'Urban thus had good reason for maintaining the status quo until Stockenström had assessed the situation. His repeal of martial law on 18 August, 1836, in effect meant the abolition of his settlement. It was an act of bad faith at worst or extreme reticence at best that he failed to inform Stockenström of a decision with such great consequences for his Lieutenant-Governorship, promulgated within hours of the latter's departure for Grahamstown and the frontier. D'Urban claimed that legal pressure for the abolition of martial law crystallised in the memorandum

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<sup>37</sup>P.P., 1851, XXXVIII, (424), p.181, Napier to Stanley, 4 December, 1843.

<sup>38</sup>C.A., A519, Vol. 22, pp.42-3, D'Urban to Wylde, 6 February, 1836.

from Sir John Wylde dated 16 August, 1836 which claimed the "Jurisdiction and Process of the Supreme Court ran into and extended over the Province of Queen Adelaide",<sup>39</sup> could no longer be resisted. He had, however, resisted that pressure, since the introduction of his settlement in September, 1835. Dracopoli, perhaps with more drama than justice, emphasised the irony in the fact that D'Urban, having ignored his Instructions and "set in motion the first great experiment in native policy in the Cape Colony, should lose his nerve over a legal quibble."<sup>40</sup>

Stockenstrom realised the difficulty in continuing the D'Urban system without martial law, and proposed to withdraw the troops from Queen Adelaide, and concentrate them on the Fish River, believing that in the event of an attack on the Colony, it was sound policy to keep the army poised at its weakest point.<sup>41</sup> D'Urban saw in this the final blow to his settlement and efficient government in the new Province, and he accordingly ordered Stockenstrom to prepare for its evacuation and to negotiate treaties with the tribes.<sup>42</sup>

Thus officially released from any further obligation to the D'Urban system, Stockenstrom made use of the initiative his Instructions allowed him and moved rapidly to implement the treaty system. By 5 December, 1836, he had renounced possession of Queen Adelaide Province, annulled D'Urban's treaties of 17 September, 1835, and had concluded the first treaties with the Ngqika chiefs - Maqoma, Tyhali, Bhotomane, Nqeno and Sandile, represented by his mother Sutu. The treaties with the Ndhlambe chiefs Siwani, represented by his mother Nonibe, Mhala, Mqhayi and Gasela, and the Gqunukhwebe chiefs Phato, Kama and Kobe were similarly signed on 5 December with minor amendments at King Williamstown. Treaties were concluded on 10 December at Fort Peddie with the Mfengu chiefs, and a treaty with the Thembu chief Mapassa at

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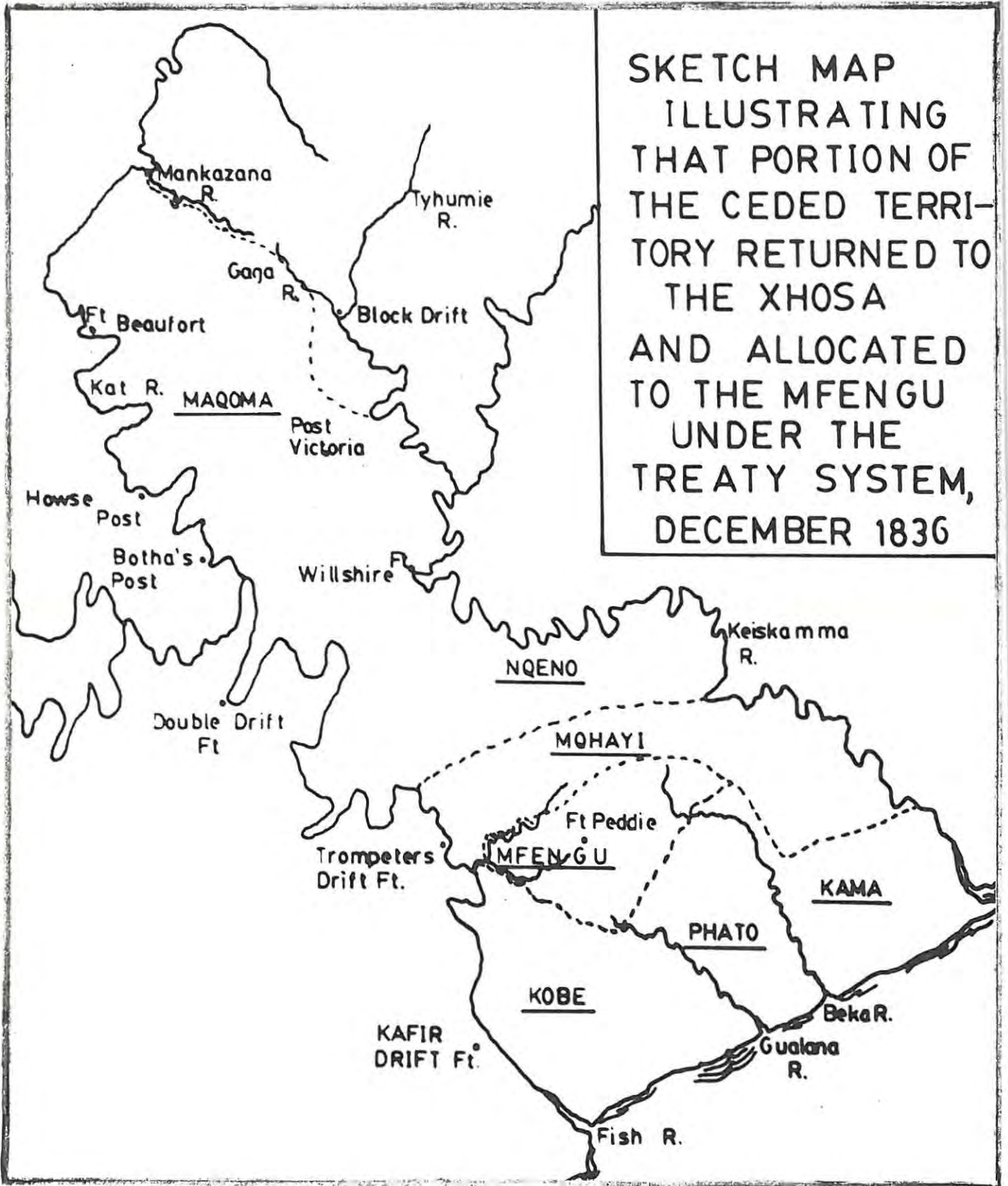
<sup>39</sup>C.A., A519, Vol. 18, pp.177-8, Memorandum from Sir John Wylde to D'Urban, 16 August, 1836.

<sup>40</sup>J.L. Dracopoli, Sir Andries Stockenstrom, 1792-1864, p.120.

<sup>41</sup>Stockenstrom to D'Urban, 3 October, 1836, quoted in Galbraith, Reluctant Empire, p.140.

<sup>42</sup>C.A., A519, Vol. 15, pp.61-2, D'Urban to Stockenstrom, 13 October, 1836.

SKETCH MAP  
 ILLUSTRATING  
 THAT PORTION OF  
 THE CEDED TERRI-  
 TORY RETURNED TO  
 THE XHOSA  
 AND ALLOCATED  
 TO THE MFENGU  
 UNDER THE  
 TREATY SYSTEM,  
 DECEMBER 1836



Shiloh on 18 January, 1837 - all following the same general principles - completed the system on paper. In his treaties Stockenstrom made over the old ceded territory as a 'loan in perpetuity' to certain chiefs conditional to their good behaviour, although the British government retained theoretical sovereignty, the right to build forts in the territory and maintain lines of communication with those forts. The eastern boundary of the Colony was once again declared to be that agreed upon between Lord Charles Somerset and Ngqika in 1819: the Keiskamma from the sea to its junction with the Tyhumie, thence up that river

to where it touches a ridge of high land connected with the Kat Berg and which separates the waters which fall into the Chumie from those which fall into the Kat River; thence the said ridge to its junction with the Kat Berg; thence the Kat Berg itself, and the high ground and ridges which connect it with the Luheri or Gaika's Peak, and the great chain of the Winterberg up to the Winterberg's highest point, thus including within the Colony all the branches of the Kat and Gonappe rivers up to their extreme sources, and including in Kaffraria all branches of the Chumie. <sup>43</sup>

The territory Wade had disputed in 1833 was thus returned to the tribes, but was partly occupied by the Mfengu in consequence of D'Urban's May policy. In the treaty with the Ngqika chiefs it was stipulated that they were not to be molested and were to be allowed to harvest their crops before moving to Fort Peddie. A garrison was to remain at Fort Thomson to protect them.

Whereas the object of D'Urban's settlement had been to weaken the authority of the chiefs, Stockenstrom's policy rested on the recognition of that authority and the chiefs' acceptance of the responsibility for the control of their followers. Colonial Agents were to be stationed with the chiefs solely in a diplomatic capacity, and all tribesmen entering the Colony were to be unarmed and in receipt of a pass issued by one of these Agents, but the chiefs were to undertake to guarantee the conduct of such pass-holders while they were in the Colony.

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<sup>43</sup>P.P., 1851, XXXVIII, (424), pp.2-7, 'Treaty entered into between Andries Stockenstrom, Esquire, Lieutenant-Governor of the Eastern Division of the Colony of the Cape of Good Hope, on the part of His Britannic Majesty and the Kafir Chiefs of the Tribe of Gaika ...', 5 December, 1836, Article 2. See Maps 5 and 8.

Colonists who wished to cross the frontier were also required to have passes, which were to be issued by the officer commanding the post nearest to their place of entry. The chiefs had the right to expel those who were not in possession of such passes. Licensed traders were required to obtain the permission of the appropriate chief before they entered his territory, but once allowed in, they and their property were to be inviolate and under the chief's protection.

The chiefs were further obliged to station reliable guards, or pakati, near the frontier to report on stock thieves and to liaise with the commanding officer of the nearest military post on such matters. They also agreed to the employment of native police by the Colonial government. The police were to be stationed at the military posts, allowed free access into the chiefs' territory and, with the assistance of the pakati, they were to be permitted to seek out criminals or depredators from the Colony. British subjects charged with crimes in the trans-frontier areas were to have access to the Agents stationed there, who were to be allowed to plead on their behalf. These Agents were also expected to assist in obtaining satisfaction by means of a British court in cases where a colonial offender had escaped back into the Colony "with as much zeal for the Kafir who may thus be wronged by a British subject, as he is bound to do on behalf of the British subject who may be aggrieved by a Kafir."<sup>44</sup>

A central point in Stockenstrom's system was that the chiefs alone were to be responsible for recovering stolen cattle beyond the Fish River; anything like the old commandos or reprisal patrols had no place in his system. Within the Colony, farmers were expected to protect their herds and flocks, with armed herdsmen if necessary. Tribesmen caught stealing in the Colony were to be dealt with under colonial law, and in cases of attempted flight or resistance it was considered legal to fire upon and kill them if they could not be stopped in any other way.

In the case where they were the victims of successful stock theft, colonists had two choices. They could go to the nearest pakati, swear that despite having guarded their herds, they had been robbed and had immediately tracked the criminals to a particular spot on the frontier.

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<sup>44</sup>Ibid., Article 20.

The pakati, after establishing the veracity of this claim to his satisfaction, was bound to try and recover the stolen property, while the pursuing party had the choice of assisting him in the search unarmed, and under the pakati's direction. At the successful conclusion of the search, a report of the proceedings was to be made either to one of the Agents, or to the officer commanding the nearest post, while the criminals were to be punished by the chiefs and the pakati rewarded according to Xhosa custom.

The colonists could otherwise report the theft to the nearest military post and swear on oath that they had been robbed, despite enforcing the requisite safeguards. The colonial authorities had then to follow up on the spoor, and if they failed to apprehend the thieves within the Colony, they were required to notify the nearest pakati. If the pakati was unsuccessful as well, the nearest Agent was to be approached and a complaint lodged upon oath. Again, if the Agent was satisfied as to the truthfulness of the complaint, he was obliged to lay the case before the chiefs of the territory into which the criminals and property had been traced. The chiefs in council were then bound to investigate, and if the property had not been located within one month it was clear on the evidence of the pakati and the aggrieved farmer that the property had been traced into their territory, then compensation was to be made to him.<sup>45</sup>

Three days after the conclusion of the 5 December treaties The Graham's Town Journal commented caustically:

Whatever may be the ultimate result of the measures now about to be adopted, and which time alone can show, every reasonable person must have considerable misgivings as to whether, in the simplicity of their hearts, these people [the Xhosa] may not be apt to mistake magnanimity for pusillanimity, and seize some favourable opportunity of seeking to obtain a further proof of the liberality of His Majesty and his Ministers, by the same means as those through which they may possibly imagine it has been secured to them on the present occasion.<sup>46</sup>

The matter of the treaties soon gave rise to a bitter disagreement between the Governor and Lieutenant-Governor, and was reflected in the

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<sup>45</sup>Ibid., Article 25.

<sup>46</sup>C.L., G.T.J., 8 December, 1836 (Editor's emphasis).

minutes of the Executive Council over a period of six months.

In compliance with Glenelg's despatch of 5 February, 1836, which directed that ratification of Stockenstrom's treaties was reserved, in the first instance, to the Governor in Council, the Ngqika treaty of 5 December, 1836, was laid before the Executive Council on 16 December, 1836, but consideration was delayed to allow members to consider its provisions. At the following meeting on 31 December, 1836, D'Urban again delayed consideration of the treaty in expectation of the arrival of an accompanying map which had not been enclosed with the treaty itself. By the sitting of the Council on 9 February, 1837, the relevant map had been received together with the treaties with the Mfengu, Ndhlambe and Gqunukhwebe tribes. The Council, however, pointed out the absence of accurate maps of those portions of the former ceded territory assigned to each tribe. It was therefore minuted that "without precise information on these points, the Council can form no idea of the local position of each of the other tribes, and to the different points of communication or defence along the Colonial Frontier line where it touches the several Territories in question."<sup>47</sup> The Lieutenant-Governor was to be approached to rectify the situation.

A despatch from Stockenstrom, dated 24 February, 1837, and laid before the Council on 13 March, 1837, declared it was the Lieutenant-Governor's opinion that the map which accompanied the treaties was sufficient for the Council's purposes. The Council, under D'Urban's influence, expended considerable space in the minutes of that date in an explanation of why they found "the rough sketch...which is called a map...utterly insufficient." Reference was made to the Governor's treaty of 17 September, 1835, as a perfect example, "wherein the limits of [the chiefs'] territory are minutely described besides being delineated in a properly marked sketch annexed to the Treaty."<sup>48</sup> The Council further observed that

the compass bearing therein laid down is inserted in the most careless manner, that the scale attached to it is divided only by the roughest pencil marks, that so far from its being in itself a sufficient accompaniment to the treaties, it is not even, in its present

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<sup>47</sup>C.A., Ex. Co., I, 9 February, 1837.

<sup>48</sup>Ibid., 13 March, 1837. (Council's emphasis).

state, fit to accompany and elucidate the specifications [that is, the written description of the boundaries] to which in an improved shape it ought to be annexed, and that it bears no mark of authenticity on its face by which its correctness may be judged of.<sup>49</sup>

The Council therefore requested that these errors be rectified, being of the opinion that in the past the absence of "perfect accuracy" had led to "so many fatal misunderstandings". The truth of this statement cannot be doubted when Wade's evidence before the Aborigines Committee with regard to the dispute link in the boundary of the ceded territory is considered, but there seems to have been an element of implicit provocation in the Council's deliberations, and a provocation which seems to have taken its cue from D'Urban.

A further reason for disagreement over the treaties was connected with the Cape of Good Hope Punishment Act, passed by the British Parliament in August, 1836.<sup>50</sup> At the Executive Council meeting of 20 March, 1837, D'Urban laid before the Council a despatch from Glenelg dated 26 September, 1836, containing the provisions of this act. The Resident Agents Stretch, Bowker, H.J. Flynn and W.M. Flynn were created Justices of the Peace under it and in the Western Division of the Colony, the Resident Magistrates of the two northern districts of Clanwilliam and Beaufort were similarly commissioned.<sup>51</sup>

But at the meeting of the Executive Council on 19 April, 1837, the Council noted that while Stockenström's treaties had been drawn up in accordance with the principles laid down in the despatches of 26 December, 1835, and 5 February, 1836, they were dissatisfied that British subjects should be made liable to be tried twice for crimes committed by them within the territories of the native tribes, "namely once by the Kafir, Tombookie or Fingo laws, as provided in the Treaties, and again by the Colonial courts, under authority of the late Act of Parliament, the force and effect of which cannot be impaired by anything in the Treaties contained."<sup>52</sup>

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<sup>49</sup>Ibid., 13 March, 1837. (Council's emphasis).

<sup>50</sup>C.L., published in G.G., 27 January, 1837. This Act extended the jurisdiction of the Cape courts to cover any "territory adjacent to the...Colony, southward of the 25° of the South latitude."

<sup>51</sup>C.A., Ex. Co., I, 20 March, 1837.

<sup>52</sup>Ibid., 19 April, 1837.

During the following meeting of the Council on 20 April, the Attorney-General proposed, and it was adopted that an amendment be made to the sixteenth article<sup>53</sup> of the treaty with the Ngqika clan and to the corresponding articles in the other treaties, to the effect that any British subject committing a crime beyond the border should not be subject to 'native law' but instead be given up to the Agent for transportation to the Colony where he would be dealt with in accordance with the provisions of the Cape of Good Hope Punishment Act.

With the incorporation of this amendment, the Council believed that the Stockenstrom treaties could be provisionally ratified, but again noted that such ratification should be "wholly dependent on the strict execution of the measures...respecting written specifications of the lines of demarcation between the several Kafir tribes, and between them and the Fingoes, and the proper entry of those lines on maps to be annexed with such specifications to the Treaties respectively."<sup>54</sup>

In a despatch dated 9 May, 1837, Stockenstrom courteously refused to recommend the Executive Council's proposed amendments of 20 April, 1837, to the contracting chiefs or to become party to the transaction. In the face of the Lieutenant-Governor's opposition, the Council could do little but note again their considered opinion that such an amendment was necessary, but they nevertheless decided to suspend the amendment until His Majesty's pleasure was known "to avoid anything that might tend to frustrate or impede the operation of the Treaties."<sup>55</sup> While once again insisting that the Lieutenant-Governor fulfil the stipulations regarding the maps and specifications, D'Urban affixed his provisional ratification in Council to Stockenstrom's treaties. Thus six months after Stockenstrom had first negotiated the treaties, they were ratified by the Colonial government. In the circumstances the matter of specifications and maps was largely academic. Stockenstrom

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<sup>53</sup>P.P., 1851, XXXVIII, (424), p.4, Article 16: "...it is hereby clearly understood that all persons who shall enter the [trans-Fish territories]...shall be and are considered to be subject to the laws of the Kafirs as long as they shall remain in the said territory."

<sup>54</sup>C.A., Ex. Co., I, 20 April, 1837.

<sup>55</sup>C.A., Ex. Co., I, 1 June, 1837.

had not only formed and proposed the treaties in accordance with his Instructions of 5 February, 1836, but he had also concluded and carried them into immediate effect before they had been ratified by the Executive Council because he deemed such action necessary for the peace and stability of the frontier.

D'Urban informed Glenelg in his despatch of 15 March, 1837: "The Provisional and intermediate ratification of the Treaties by the Council...so far as it may affect the actual position of the parties will be but an ex post facto decision, they having been already carried into full effect."<sup>56</sup>

Throughout 1837 the hostility between D'Urban and Stockenstrom simmered and occasionally flared, and it is obvious that in their correspondence they were not writing to each other, but defending their respective points of view for the benefit of Glenelg, before whom all correspondence would ultimately end. The situation became such that in March, 1837, D'Urban asked Glenelg for clarification as to what instructions the Governor could lawfully give, inquiring: "What is the specific measure or description of Lawful Instructions to be given to him, to the Lieutenant-Governor who has been already vested with the full power of Governor and Commander-in-Chief within the District of his separate jurisdiction." It might not matter, D'Urban added, were the Lieutenant-Governor prepared to receive the opinions of his superior "submissively", but instead Stockenstrom was "an officer of great confidence in his own opinions, impatient of control or suggestion, and jealous to a degree of any interference with his authority." While D'Urban was clearly annoyed by the fact that Stockenstrom had succeeded to his civil and executive powers in the Eastern Districts, he was particularly angry at the creation of the Lieutenant-Governorship with independent military powers on the frontier. D'Urban declared he could not but view this "as constituting an anomalous interference with the General Officer specifically appointed by His Majesty to command the forces in the Colony." Under such circumstances D'Urban emphasised that he could not be held responsible for the military dispositions on the frontier. Warming to his topic he continued that Stockenstrom had shown no disposition "to submit upon questions strictly

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<sup>56</sup>C.A., A519, Vol. 10, p.148, D'Urban to Glenelg, 15 March, 1837.

military to the professional opinions of the General officer...who has at least the support of some practical experience."<sup>57</sup> As an officer who had risen without the benefit of family connection or patronage, D'Urban was clearly sensitive about his military reputation.

D'Urban stated that to hold Queen Adelaide Province after Stockenstrom's arrival would have been dangerous and useless, since the British government's determination long understood in the Colony, had "sapped the foundations of confidence and hope"<sup>58</sup> of not only the border colonists but also of the ordinary tribesmen, upon "whom the moral basis of that annexation rested." The arrival of Stockenstrom - "universally regarded as the Officer especially deputed to execute your Lordship's will in changing the existing system"<sup>59</sup> together with the absence of "any hope of an ultimate change in your Lordship's reiterated determination to renounce the Province of Adelaide",<sup>60</sup> had led D'Urban not to await the further instructions, which he claimed were ambiguously referred to in the despatch of 5 February.

Later on in his 14 March despatch to Glenelg, D'Urban made an astounding admission for someone who claimed to be awaiting a change of heart by the British government, and the retention of the new Province. He declared: "To the renunciation of the new Province, however I may have depreciated that measure, I have long learned to be resigned, by your Lordship's strongly expressed disapproval of its occupation, and often repeated determination to renounce it..."<sup>61</sup> If D'Urban had been long resigned to the fate of his settlement it seems improbably optimistic of him to have hoped that he could sway the Colonial Office with his one despatch of 7 November - which imperfectly explained the September settlement and inadequately explained why he had ignored his Instructions, incurred greater expense, and what had caused the war. Also, if D'Urban was aware of Glenelg's "often repeated determination" to abandon Queen Adelaide Province, he seems to have been unnecessarily pedantic in awaiting a direct order to carry out the abandonment.

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<sup>57</sup>Ibid. (D'Urban's emphasis).

<sup>58</sup>Ibid.

<sup>59</sup>Ibid.

<sup>60</sup>Ibid.

<sup>61</sup>Ibid. (My emphasis).

The greatest clash of opinion between D'Urban and Stockenström occurred over the latter's adoption of the Fish River as the eastern boundary of the Colony. The polarisation of opinion was absolute. Stockenström defended his action on the grounds that the Fish River was the weakest point in the Colony's defences, and that it would be better to make it the line of frontier, than have it in the rear, threatening communications with the forward posts, and providing the cover for a sudden attack into the Colony which would simultaneously isolate those posts. Besides, Stockenström wrote, the responsibility was his and the withdrawal was covered by the authority of his Instructions.<sup>62</sup>

Stockenström was Glenelg's personal appointee with the Secretary of State's strong support. He was also commissioned with all the significant executive powers with regard to frontier affairs. D'Urban could do little more than record his dissent. In his despatch of 13 March, 1837, the Governor complained strongly that Stockenström's resumption of the Fish and Kat Rivers the colonial frontier would be "fraught with disastrous consequences to the Colony",<sup>63</sup> because it allowed the "Kafir hordes" too close to the frontier. D'Urban believed that the line of forts Stockenström wanted to establish from the Winterberg to the lower Fish River would be more expensive in men and materials than the line of defence he personally had envisaged in his despatch of 19 June, 1835.<sup>64</sup> Even the increased expenditure would not render the line defensible for that D'Urban considered impossible but would only provide the soldiers in each post with a secure retreat.<sup>65</sup>

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<sup>62</sup>Stockenström to D'Urban, 3 November, 1836, quoted in Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', p.194.

<sup>63</sup>D'Urban to Glenelg, 13 March, 1837, quoted in Roxborough, *op.cit.*, p.193.

<sup>64</sup>P.P., 1836, XXXIX, (279), pp.15-57, D'Urban to Aberdeen, 19 June, 1835.

<sup>65</sup>*Ibid.*, p.23. D'Urban believed that to defend the Kei frontier he would require two Companies of Royal Artillery (160 men), one Company of Sappers (80), and five Battalions (2,500), a total of 2,740 men. The defence of the pre-1835 line he estimated would require 3,400 men. In either case he recommended that the Khoikhoi cavalry be increased to 800, and the provisional Khoikhoi infantry he had raised be regularly embodied and increased to 1,600 men. Stockenström estimated that only 1,500 troops would be required under his treaty system. Among D'Urban's personal papers in the Cape

Although D'Urban gave little assistance to Stockenstrom in setting up his treaty system, it is an over-simplification of D'Urban's character and a disregard of his sense of duty, which permeated all he did as Governor, to see his actions post-1836 as merely obstructionist. D'Urban did not agree with Stockenstrom's measures, as he so often stated, and to expect him quietly to concur in everything the Lieutenant-Governor did, would have been in direct conflict with his character. Slow and thorough in his deliberation, D'Urban was often stubbornly convinced once a decision had been made that it was the right one. This sense of correctitude on occasion did more than a little to colour his relationship with Stockenstrom with an angry red hue.

But D'Urban must draw criticism for his tacit support of the covert hostility that many of the local functionaries and military officers in the Eastern Districts harboured for Stockenstrom.

Lieutenant Henry Warden, a recipient of D'Urban's patronage, reported to the Governor with some amusement that Maqoma and Tyhali had told him "Stockenstrom is not a 'Groot Baas'. The Groot Baas sits at the other end of the Colony. How can the Lieutenant-Governor be a great man when he was born in this country and his father a Boer? We believe that all other Governors come into the world Great men, but a Great man could not be born in the colony."<sup>66</sup>

In this letter, Warden also thanked D'Urban for his patronage, stating: "I cannot but feel that during the last two years my prospects in life have received such aid from your kindness, as I never looked for from the time I entered the Military College in 1813 to

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Archives there is a breakdown of the troops at the Cape on 7 June, 1843. D'Urban noted that the presence of 3,451 troops at the Cape on that date was more than double Stockenstrom's estimate, and that "even this force has been found wanting." C.A., A519, Vol. 28, p.174.

<sup>66</sup>C.A., A519, Vol. 6, pp.195-6, Warden to D'Urban, 26 May, 1837. With regard to Warden's story about Stockenstrom not being a 'Groot Baas', it is interesting to note that when Chief Maqoma was asked about the impact of Stockenstrom on the frontier post-1836, he declared himself unable to evince as profound a like or dislike for him as Smith conjured. One of the Chief's Councillors present at the interview, Mr W. Ximiya, dismissed Stockenstrom as "not one of those prominent men who played the part of Sir Harry Smith and Sir Benjamin D'Urban." Interview with Chief Maqoma, Zwelitsha, King William's Town District, 7 May, 1980.

the present time, your Excellency is the only General Officer, although other Governors of the Colony have noticed me, that has conferred real benefits."

Thus it would seem Warden's loyalty lay first with D'Urban. He certainly believed in D'Urban's settlement and declared "had the new Province been retained only for three or four years we should have done more for the Kaffirs than it is possible now to effect in half a century..."<sup>67</sup>

Another loyal follower of D'Urban's was John Mitford Bowker,<sup>68</sup> whom D'Urban had appointed Resident Agent to the Ngqika chiefs and whom Stockenstrom later appointed to the Mfengu at Fort Peddie. In a letter to Bowker on 11 August, 1837, shortly after the Xhosa attack on the Mfengu location at Peddie, D'Urban asked him to "keep me acquainted candidly and directly with all that may occur under your observation... by every post."<sup>69</sup>

Bowker, as Stockenstrom's appointee, considered himself duty bound to ensure the success of the treaty system to the best of his ability. Yet he declared that as a private individual

my lot is cast in this colony...and when I know that our prosperity depends upon the prosperity of the land of our adoption, I cannot coolly look on and see things going to ruin under the present system because I hold a situation under that system [but] I shall do my best to make it answer. But it is also a duty I owe to my country to expose the defects of said system that they may, if possible, be timely remedied and the country saved from the verge of ruin.<sup>70</sup>

Bowker consequently kept D'Urban informed of the tortuous complexities and implications which arose from the incident at Fort Peddie on 2 August, 1837, and embroidered his letters with criticism of Stockenstrom and his system. D'Urban forwarded copies of many of these

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<sup>67</sup>Ibid.

<sup>68</sup>John Mitford Bowker (1801-1847), arrived at the Cape in 1822, and saw service as a government agent with the Mfengu. He was a critic of the Stockenstrom system and a strong proponent of the cause of frontier farmers. See D.S.A.B., Vol. III, pp.94-5.

<sup>69</sup>A.M.A., S.M. 1181c, D'Urban to Bowker, 11 August, 1837. Also, Speeches, Letters and Selections from Important Papers of the late John Mitford Bowker, p.29.

<sup>70</sup>C.A., A519, Vol. 13, pp.205-10, Bowker to D'Urban, 5 September, 1837.

letters to Glenelg to support his own opinions in earlier and current despatches.

D'Urban appreciated Bowker's efforts at keeping him informed, for he wrote to him on 29 September, 1837, acknowledging the receipt of three letters, and declared: "They are very - though painfully - interesting, and they prove you to have done your duty - ably, faithfully and firmly."<sup>71</sup> Bowker also felt sufficiently confident of D'Urban's patronage. In a letter dated 18 December, 1837, he declared his willingness to keep D'Urban informed of frontier affairs, although the former would no longer be Governor or indeed in any official capacity. Bowker also requested that as he was on bad terms with Stockenstrom, D'Urban should use his influence to explain the Mfengu Agent's case to the new Governor. "I ask no favour from him, only fair play. As he will be entirely a stranger amongst us, without an explanation my conduct may be so represented from a certain quarter, that from the very best of motives he may think fit to dismiss me."<sup>72</sup>

On 2 August, 1837, a not entirely unprovoked attack on the Mfengu location at Fort Peddie by armed Xhosa tribesmen of Nqeno's clan under a chieftain called Siyolo led to the first major crisis for Stockenstrom in the application of his treaty system. The incident was aggravated by the fact that the Xhosa had ignored the remonstrances of the Agent, Bowker, and that in the resulting mêlée a British soldier and 10 Mfengu tribesmen had been killed and a Mfengu chief severely wounded.

Stockenstrom had long realised the danger inherent in having the Mfengu so close to the Xhosa. In a despatch to Glenelg dated 7 January, 1837, he had declared: "The Fingoes I'd wish safe away a couple of hundred miles further westward from the reach of the Caffres, to whom they will long be a source of heart-burning, primarily because they had been allowed to carry off as much Xhosa cattle as they could when they came under British protection in 1835."<sup>73</sup>

In a despatch to D'Urban dated 3 August, 1837, Stockenstrom voiced an opinion strongly at variance with the Governor's own declared feelings

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<sup>71</sup>A.M.A., S.M. 1177, p.317, D'Urban to Bowker, 29 September, 1837.

<sup>72</sup>A.M.A., S.M. 1177, pp.181-2, Bowker to D'Urban, 18 December, 1837.

<sup>73</sup>C.A., A519, Vol. 12, Stockenstrom to Glenelg, 7 January, 1837.

for his act of Mfengu 'emancipation'. He said:

It is distressing to think that whilst those Fingoes who have remained with, or returned to, the Caffres have been comparatively comfortable and safe, and whilst those who have agreed to continue under the domination of Maqomo and Tyalie...have had every protection and support tendered them by those two chiefs, the unhappy wretches who enjoyed our special solicitude are the objects of inveterate persecution ... 74

He was undoubtedly correct - the Mfengu in the old ceded territory and the Colony had become the objects of the inveterate hatred of the Xhosa.

After he had investigated the Peddie incident, Stockenstrom concluded that the Xhosa had been provoked, that Nqeno had been guiltless of any premeditated complicity, and that Siyolo should be held responsible. But he turned the matter over to a council of chiefs to redress Siyolo's conduct in accordance with the treaty which made the chiefs responsible for the acts of their followers. In strict terms the incident had occurred beyond the effective colonial frontier. After some delay, seventy-four head of cattle were sent to Fort Peddie as compensation and to restore those taken during the incident, and Stockenstrom declared himself satisfied.

D'Urban was not satisfied and considered the punishment far too lenient and an indication to the Xhosa of colonial weakness. In a despatch to Glenelg dated 12 August, 1837, he declared the act to have been in direct violation not only of the treaties of 5 December, 1836, but also in defiance of Bowker's protests. While expressing his deep regret over the incident, D'Urban described himself as not surprised "because it has all along appeared to me...that the course of Frontier Policy designed by your Lordship and by the Lieutenant-Governor can scarcely end otherwise than in disaster, and this I apprehend is but the commencement of the end consequences which I have predicted."<sup>75</sup> D'Urban also pointed out that the Thembus under Mapassa had violated their treaty by entering the Colony in an armed body in pursuit of some Khoikhoi, and that only the intervention of Lieutenant-Colonel

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<sup>74</sup>C.A., A519, Vol. 12, pp.132-4, Stockenstrom to D'Urban, 3 August, 1837.

<sup>75</sup>C.A., A519, Vol. 12, pp.93ff, D'Urban to Glenelg, 12 August, 1837.

England had deflected their purpose, and forced them to retire. D'Urban declared the state of tension along the frontier as a result of these incidents had caused the revival of military patrols, and he enclosed statements showing that as many as nine patrols a day had been sent out from the same military post in a period of fourteen days. He concluded grandiloquently that the troops "in what ought to be and is called a state of profound peace, are virtually in a state of war."<sup>76</sup> The despatch was accompanied by copious enclosures.

Further despatches on the 19 August and 9 October, 1837, were in the same vein. In the former, D'Urban declared that the frontier provinces had lost 1,600 families who had emigrated into the interior because of the insecurity along the frontier and stated that the Lieutenant-Governor in "his advocacy of the Kaffir cause, seems disposed to admit in palliation of the flagrant violation of the twenty-eighth Article<sup>77</sup> of the Treaty, namely 'their [Xhosa] irritation of seeing the Fingoes who had been their slaves, and of whom they had been forcibly deprived, living in freedom, and in possession of herds and flocks'." With asperity D'Urban declared: "If this argument could find support for an instant upon any ground of morality, it has none whatever in fact. These Fingoes never were the Slaves of the Tribes of the Gaikas and T'Slambies, who had nothing to do with them, nor had they inhabited any part of their country. They were the slaves of Hintza, and they lived beyond the Kye."<sup>78</sup> Once again D'Urban exhibited the prevalent ignorance in Colonial government circles of the position of the Mfengu in Xhosa society. They were Xhosa 'clients', not Xhosa 'slaves'.

The conclusion that must have been reached is that D'Urban was allowing larger questions of policy to be obscured in his desire to

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<sup>76</sup>Ibid.

<sup>77</sup>P.P., 1851, XXXVIII, (424), p.6. Treaty with the Ngqika Chiefs, 5 December, 1836: "Art.28 - The said contracting chiefs do also agree, promise and pledge themselves to abstain, and cause their tribe to abstain, from any way molesting or interfering with the Fingoes who are or will be located in the said ceded territory, but to consider them as under British protection."

<sup>78</sup>C.A., A519, Vol. 12, pp.161-8, D'Urban to Glenelg, 19 August, 1837.

find something of value in his discarded frontier settlement. As a result of this tendency to question details, and the public knowledge of the antipathy between Governor and Lieutenant-Governor, no attempt at an effective policy towards the emigrant farmers could be adopted.

After D'Urban had received the news of his dismissal as Governor on 26 August, 1837,<sup>79</sup> he continued to criticise Stockenström's policy with the undiminished fervour of someone who foresaw approaching calamity. In his despatch of 9 October, 1837,<sup>80</sup> he declared that "to all who are versed in the conditions and temper and propensities of the Tribes and whose reasoning is unbiased", the attack on the Mfengu location in August was the first in "a succession of meditated enterprizes [sic]" intended to test the strength and determination of the border authorities to resist and punish such aggression. D'Urban believed that the success of this first feint would lead to others, more particularly the destruction of the remaining Mfengu and an attack on the Gqunukhwebe clans,<sup>81</sup> thereby achieving the twofold objective of the Ngqika and Ndhlambe clans of avenging themselves and expelling their enemies from the ceded territory.

D'Urban considered the next target would be the Kat River Settlement, "an object which Macomo has very much at heart, and which he will never abandon." Thereafter the "Amakosa Kaffirs" would be in

a condition to make any inroads, permanent or partial, as may suit their purposes of the moment, into Albany and Somerset...How far further westwards afterwards they may penetrate, is not easy perhaps, now to foretell, especially as the country is in rapid process of abandonment by the invaluable race of Colonial Farmers, who have heretofore cultivated, paid taxes and defended it. <sup>82</sup>

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<sup>79</sup>Contained in C.A., G.H. 1/114, Glenelg to D'Urban, 1 May, 1837, received at the Cape on 26 August, 1837.

<sup>80</sup>C.A., A519, Vol. 13, pp.2-16, D'Urban to Glenelg, 9 October, 1837.

<sup>81</sup>Ibid. In a pencilled comment at this point, D'Urban later wrote 'fulfilled in end of 1838'. The Gqunukhwebe chiefs Kama later migrated to the north-eastern Cape in June, 1843, partly to escape the hostility of other Xhosa chiefs.

<sup>82</sup>Ibid.

The Great Trek occupied a central position in D'Urban's governorship, for he was the last Governor to face a frontier situation whose solution could conceivably have been encompassed within the framework of the existing administrative and judicial structures of the Cape. In the space of about thirteen years (1836-49) the area of penetration, from Cape Town, the first point of settlement, was more than doubled, and the areas of contact with the black tribes were correspondingly increased. This great forward movement sent a series of shock waves through the tribes of the interior, and future events were presaged when two trek leaders, Potgieter<sup>83</sup> and Uys<sup>84</sup> severely mauled the impis of Mzilikazi along the Marico River in November, 1837, and caused the Ndebele to withdraw north of it.

Understandably the causes of the Trek have attracted much academic interest,<sup>85</sup> but because the movement was discreetly planned the consequent lack of written records makes it difficult to give a coherent description of why most trekkers left. Amongst the most important contemporary documents relating to the Trek are Retief's Manifesto dated 22 January, 1837, a letter to D'Urban from Retief at Sout river, dated 21 July, 1837, and Uys' letter to D'Urban from the Orange river, dated 7 August, 1837. Of the two men, Retief was clearly more aware of the political and propaganda value of a statement of trekker intent and grievance, hence his publication of the Manifesto in The Graham's Town Journal of 2 February, 1837. There can be no doubt that Retief also made good political capital from his much publicised argument with an increasingly unpopular Stockenstrom through the columns of the same newspaper.<sup>86</sup>

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<sup>83</sup>Andries Hendrik Potgieter (1792-1852), together with Maritz destroyed the Ndebele kraal at Mosega, but later divisions caused him to forsake Natal and establish a trekker state in the Winburg-Potchefstroom area. See D.S.A.B., Vol. I, pp.634-41.

<sup>84</sup>Piet Uys (? - 1838), leader of the 1834 'kommissie' trek to Natal, and later of the Uitenhage party of trekkers who were presented with a Bible by the citizens of Grahamstown. Together with Retief and Maritz, Uys was a proponent of a republic in Natal.

<sup>85</sup>See, for example, Eric A. Walker, The Great Trek; C.F.J. Muller, Die Oorsprong van die Groot Trek; Johannes Meintjies, The Voortrekkers. The published material dealing with the Trek is vast.

<sup>86</sup>C.L., G.T.J., 17 November, 1836.

The Manifesto<sup>87</sup> consisted of ten paragraphs, the first four listing as causes for the Trek "the turbulent and dishonest conduct of vagrants", the financial losses due to the reduced rate of slave compensation, the insecurity along the frontier, and the "unjustifiable odium which has been cast upon us by interested and dishonest persons, under the name of religion, whose testimony is believed in England to the exclusion of all evidence in our favour." The last six paragraphs dealt largely with general trekker intentions and declared that they left the Colony "with a desire to enjoy a quieter life than we have hitherto had", and announced their determination

to uphold the just principles of liberty...establish such regulations as may suppress crime and preserve proper relations between master and servant and not molest any people nor deprive them of the smallest property; but if attacked we shall consider ourselves fully justified in defending our persons and effects to the utmost of our ability against every enemy. <sup>88</sup>

Retief's letter of 21 July, 1837, was in the same vein as his Manifesto. In it he declared the British government's lack of attention to the trekkers' grievances had compelled them to leave, significantly enough, so that they would not become "guilty of opposition against our Government."<sup>89</sup>

A note in the margin, dated 25 October, 1837, revealed D'Urban's reaction. Obviously well informed of events in trekker circles, he noted the contest for leadership between Retief, Uys and Maritz, and stated: "Before the Government condescends to treat with them at all, it must at least be certain that it treats with an acknowledged and undivided authority." He was also awaiting a reply from the Colonial Office to his query of 29 July, 1837, on how to treat with the emigrant farmers. There is a note of relief, one suspects, in his further marginal comment: "The emigrants are moving out of contact with the Colony, to the eastward, so there can arise in the interim no collision

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<sup>87</sup>See G.T.J., 2 February, 1837. Also, G.W. Eybers, Select Constitutional Documents illustrating South African History, p.143.

<sup>88</sup>Ibid.

<sup>89</sup>C.A., A519, Vol. 7, pp.11-13, Retief to D'Urban, 21 July, 1837.

between them and the Colonial authorities or inhabitants."<sup>90</sup> In terms of existing statute law, the Trek was illegal, but any attempt to deflect it physically would have been beyond the power of the Colonial government.

Uys' letter was similarly a list of grievances, but a more detailed one. It emphasised grievances like the payment of survey fees for farms, but the non-receipt of title deeds; high annual rent, and the payment of court costs from the Colonial Treasury for apprentices and servants who lost their cases against their masters on charges of ill-treatment. Uys indignantly declared: "if we are condemned we must pay a fine out of our own pockets or be sent to prison."<sup>91</sup> Uys also presented as grievances the facts that frontier farmers had not been exempt from taxes in the first year after the war, and that they had not received satisfactory remuneration for the military use of wagons, horses and oxen during the war. It is significant that whereas Retief declared in his Manifesto "We quit this Colony under the full assurance that the English Government has nothing more to require of us, and will allow us to govern ourselves without its interference in the future",<sup>92</sup> Uys stated: "It is not our fault that we leave our native land; we have begged and prayed for a change and none is made. We therefore emigrate, but we shall, notwithstanding, not yet separate ourselves from our respected Governor who endeavoured to do us good and wherever we can be of assistance we shall not fail to afford it."<sup>93</sup>

The lack of a unified view as to past grievances and future expectations among the Trek leaders was clearly apparent in the letters of Uys and Retief, and no simple view of the Trek is sufficient to explain the movement as was suggested by D'Urban's frequently made assertion that underlying everything was the lack of security in the

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<sup>90</sup>Ibid.

<sup>91</sup>C.A., A519, Vol. 7, pp.38-44, Uys to D'Urban, 7 August, 1837.

<sup>92</sup>C.L., G.T.J., 2 February, 1837.

<sup>93</sup>Uys to D'Urban, 7 August, 1837, op.cit.

frontier districts generated by the abandonment of a new Province.<sup>94</sup> As has been indicated, plans to leave the Colony had been mooted and secretly explored in mid-1834, well before the outbreak of war in December. War losses and the renunciation of Queen Adelaide Province must be seen as the tip of the iceberg.

The Trek followed the pattern of the periodic treks out of the Colony by farmers in search of seasonal grazing, but differed in the size of its migration and in the determination of its participants to establish new and independent lives away from the Colony.

Long before the large scale exodus from the Colony in 1836-7,<sup>95</sup> the colonial authorities had been aware of the migratory tendencies of its frontiersmen. For some trekking was a way of life based upon a love of open spaces, and an impatience of the control of a government centred in far away Cape Town. For others treks were dictated by drought and the need to find water and grazing for their herds. But in 1834 there were definite indications of the beginnings of "a deliberate and voluntary exit."<sup>96</sup> Philip wrote to Buxton on 1 January, 1835: "When I was on the Frontier in August and September all the talk was about Boers leaving the Colony."<sup>97</sup>

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<sup>94</sup>This is also the belief of certain schools of interpretation. See, for example, P.J. van Biljon, Grensbakers tussen Blank en Swart in Suid-Afrika, p.171.

<sup>95</sup>An enclosure to Despatch No.48, dated 24 July, 1837, to Glenelg, gave the breakdown of people reported to have left, or who were preparing to leave the Colony as follows:

Division	Number left				Number about to leave			
	Men	Women	Child- ren	Total	Men	Women	Child- ren	Total
Eastern	230	192	630	1,052	44	30	110	184
Western	8	5	2	15	35	18	23	73
Total	238	197	632	1,067	79	48	133	257

(Extracted from C.A., A519, Vol. 12, p.41).

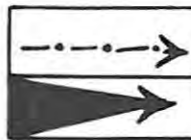
In an undated comment on a newspaper cutting of Retief's Manifesto taken from The Graham's Town Journal of 2 February, 1837, D'Urban wrote: "The aggregate amount of Emigrants ultimately did not fall short of 15,000." (C.A., A519, Vol. 28, p.61). Walker gave a rough estimate of 14,000 emigrants during the period 1835-45. (Walker, The Great Trek, p.6).

<sup>96</sup>Macmillan, Bantu, Boer and Briton (1963 edit.), p.117.

<sup>97</sup>Ibid. (Philip's emphasis).

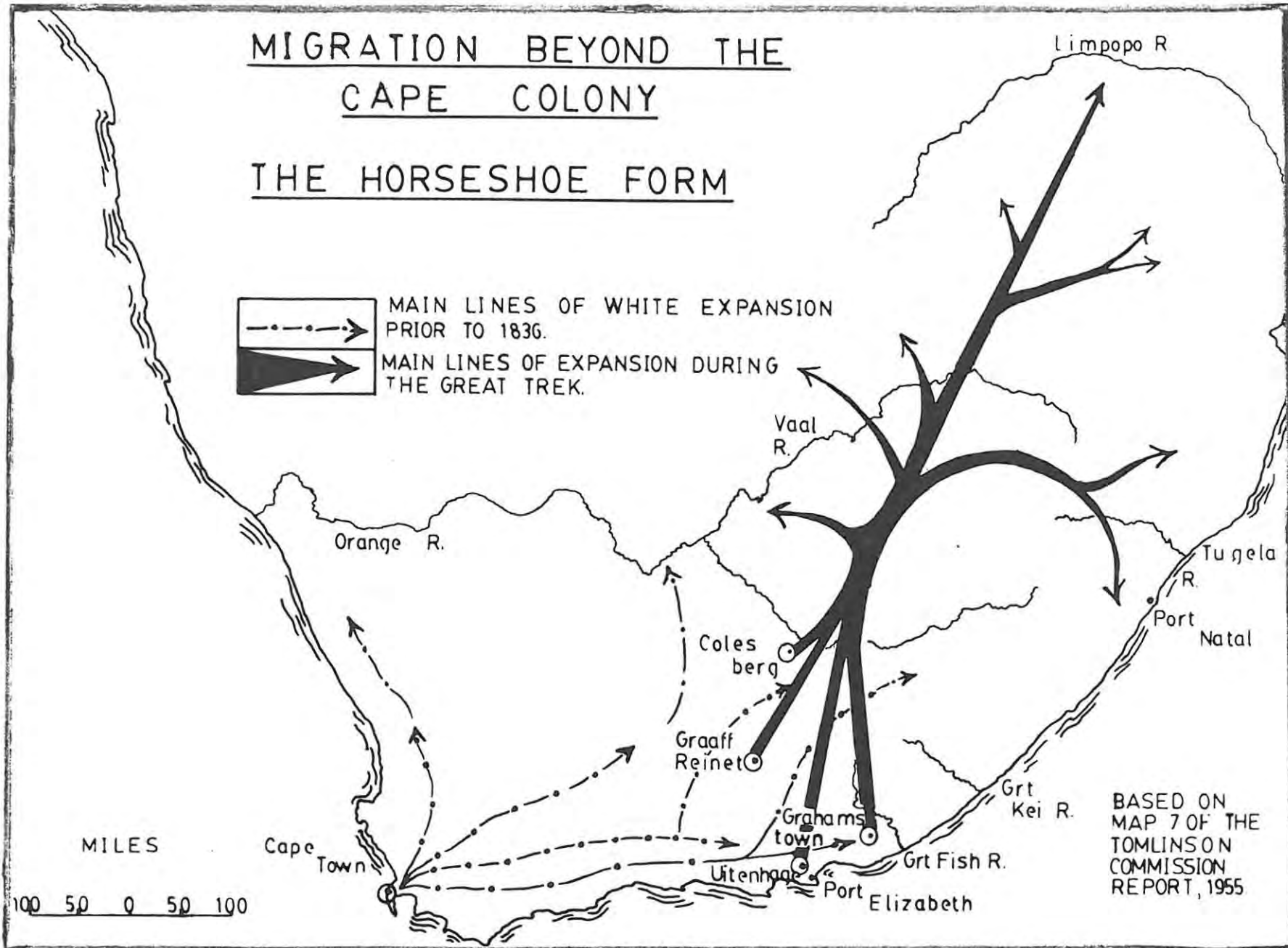
# MIGRATION BEYOND THE CAPE COLONY

## THE HORSESHOE FORM



MAIN LINES OF WHITE EXPANSION  
PRIOR TO 1836.

MAIN LINES OF EXPANSION DURING  
THE GREAT TREK.



BASED ON  
MAP 7 OF THE  
TOMLINSON  
COMMISSION  
REPORT, 1955

The year 1834 also saw three 'kommissie' treks depart for the interior to determine the prospects for settlement there. One party went as far north-west as Damaraland, the second went as far as the attractive but malarial northern Transvaal, while the third group under Piet Uys travelled through the trans-Kei area to Natal, and brought back favourable reports in 1835 to a Colony engaged in war. The renunciation of the new Province, together with the high-handed if principled behaviour of Stockenstrom decided many frontier farmers to hazard the uncertainty of Natal in preference to the uncertainty of British rule. As early as 1834, D'Urban had been disturbed by reports of unrest amongst border colonists. In September of that year, he approached the Attorney-General for his opinion of the situation, together with a list of laws forbidding the emigration of colonists beyond the colonial borders.

The Attorney-General's reply listed<sup>98</sup> no less than seven proclamations and ordinances, dating back to 1778, having reference to the illegality of crossing the frontier without permission. Oliphant suggested that a new proclamation should be issued informing government functionaries and colonists of the provisions of Ordinances 23 and 81,

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<sup>98</sup>The list was made up of the following:

- 1) Proclamation of 14 July, 1778, forbidding colonists from settling beyond the border on pain of banishment, together with the confiscation of cattle.
- 2) Proclamation of 24 August, 1810, which provided that "no individual shall remove his residence or drive his cattle, except to lands of his own held by title under Government - without permission under a penalty of Rixdollars 150..."
- 3) Proclamation of 14 May, 1812, which ordered the strict enforcement of all laws preventing intercourse with the native tribes "so that no person, under any pretext whatever shall cross the boundaries and proceed into the Caffre country."
- 4) Proclamation of 28 November, 1823, which referred to the former laws on the subject "and fixes the Great Fish River as the boundary which has since been extended."
- 5) Ordinance for the Administration of the Country Districts of 23 October, 1805, Section 31, forbade colonists going beyond the border without written permission.
- 6) Ordinance No.23 of 11 September, 1826, Section 7, enacted that "with the exception of the military and licensed traders, no person shall pass the boundary without a pass from the Landdrost or Commanding Officer in the station..."
- 7) Ordinance No.81 of 23 December, 1830, Section 14, subjected "persons without a trader's licence proceeding towards the boundaries for the purpose of trading beyond the same" to a penalty of £50.

together with the annulment of Dundas' Notice of 1828. The Attorney-General further expressed himself unable

at the present to offer any suggestions...as to how the Emigration...can be repressed, as it appears to me very evident that those persons who think they can do better in Caffraria, or elsewhere beyond the Colony, than in it, and who are not encumbered with much property, will, in this thinly populated country, be always able to elude the vigilance of those whose business it is to prevent their removal. <sup>99</sup>

Less than ten months later in June, 1835, D'Urban conducting operations against the Xhosa on the eastern frontier, informed Aberdeen that

unless a safer boundary [the Kei River in terms of his May and later September settlement] be extended before the present frontier districts of Albany and Somerset, they will be altogether deserted since not a farmer will venture to return to the occupation of lands where such certain loss and such frightful perils await him. <sup>100</sup>

Within the Colony D'Urban took what steps he could to reassure frontier farmers with kindness and promises of land in the new Province. Officers of proven popularity were sent to the remote areas to 'show the flag'. Prominent amongst these officers, Lieutenant-Colonel Somerset was ordered in confidential instructions, dated 16 October, 1835,<sup>101</sup> on a carefully detailed tour of the north-east frontier. He was to end inroads upon the colonists from wandering tribesmen, inform the chiefs in that area - principally Mapassa - of the terms of the recent September treaties, but particularly he was to use his "best endeavours" to assure the frontiersmen that the Colonial government "was unfeignedly anxious about their welfare and deeply sensitive to their distresses..."<sup>102</sup> Somerset was expressly ordered to investigate and report on the civil officers of government in that area,

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<sup>99</sup>Ibid., 'The Attorney-General's opinion on certain queries put by the Governor in a memorandum dated 5th September, 1835, relative to the Emigration of the inhabitants beyond the borders of the Colony', 10 September, 1834.

<sup>100</sup>C.A., A519, pp.12-14, D'Urban to Aberdeen, 19 June, 1835.

<sup>101</sup>C.A., A519, Vol. 21, pp.211-9, Confidential Instruction, D'Urban to Lieut.-Colonel Somerset, 16 October, 1835.

<sup>102</sup>Ibid.

as there "was too much reason to apprehend that they are negligent and indolent in the performance of their duty, taking no pains to accommodate the public..."<sup>103</sup> He was also to distribute to Field Cornets instructions in Dutch on defensive measures for farm houses devised by several imaginative officers on D'Urban's staff, and generally make a good impression. The instruction concerning frontier functionaries and their poor performance underlined the extent to which the colonial service was weakened by its limited choice of competent men to fulfil the necessary duties. Financial stringency compounded the problem.

In immediate response to Glenelg's despatch of 26 December, 1835, D'Urban wrote on 23 March, 1836, of his regret that the annexation of Queen Adelaide Province was not to be allowed. "I foresee in the consequences of this determination the abandonment and ruin of the frontier provinces of Albany and Somerset."<sup>104</sup> Again on 9 June, 1836, D'Urban informed Glenelg that the renunciation of Queen Adelaide would "be speedily followed by an extensive abandonment of Albany and Somerset on the part of the farmers",<sup>105</sup> and followed this with a list of frontier grievances, principal among them the lack of security, a facet of the problem which the annexation had been designed to solve. The Governor declared that following the announcement of his policy of control beyond the Keiskamma, the farmers,

seeing in that measure a promise of more efficient protection...relinquished generally their purpose of emigration and awaited events, hoping for compensation for their losses, for their slaves, and for greater security of person and property...but now, when they will know that the new Province is actually to be renounced by the end of the year, and despair (as they well may since no hope has been afforded them from H.M.G.) of any compensation for their losses, they will assuredly again prepare to go away; and the order for evacuating Adelaide will be the signal for their departure to seek their fortunes in the interior of the country. <sup>106</sup>

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<sup>103</sup>Ibid.

<sup>104</sup>C.A., A519, Vol. 12, pp.15-16, D'Urban to Glenelg, 23 March, 1836.

<sup>105</sup>C.A., A519, Vol. 12, pp.17-20, D'Urban to Glenelg, 9 June, 1836.

<sup>106</sup>Ibid.

To this continuous stream of information concerning the depopulation of the Eastern Districts, the Colonial Office could suggest no solution.

Finally on 29 July, 1837, D'Urban informed Glenelg that

it is now my most painful duty to inform your Lordship that my apprehensions have been but too fully realised and the abandonment which I had anticipated has begun, and is advancing with a rapidity and to an extent that I cannot contemplate without feelings of profound sorrow for the evil consequences which it must infallibly entail upon the Colony. <sup>107</sup>

D'Urban accused Stockenstrom of handling the situation badly, and declared that his influence had supplied the conclusive impulse to the Trek. In particular, the Governor was of the opinion that Stockenstrom's handling of Field Commandant Retief<sup>108</sup> had alienated him, and provided the Trek with a man of force and ability. In a despatch to Glenelg dated 9 October, 1837, he declared: "Before the emigration of Mr Retief those who left the Colony were disunited bodies, wanting alike organisation...and the conduct of a competent, acknowledged and capable chief. Mr Retief's character and estimation with the emigrants have supplied all these, and union, obedience and system are fast prevailing among them."<sup>109</sup>

The breach between Stockenstrom and Retief had developed during Stockenstrom's tour of the frontier in September, 1836. Retief had brought before the Lieutenant-Governor's attention the unsettled state of the isolated Winterberg area, and its inhabitants desire to quit that uncertainty. In a letter dated 23 September,<sup>110</sup> Stockenstrom informed Retief that he would be unable to visit the area, but that he intended to promote prosperity on the frontier and enforce colonial law with strict justice. With respect to those who were emigrating,

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<sup>107</sup>C.A., A519, Vol. 12, pp.2-11, D'Urban to Glenelg, 29 July, 1837.

<sup>108</sup>Pieter Retief (1780-1838), trader, frontier farmer and one of the best known and most capable of the Voortrekker leaders. See D.S.A.B., Vol. II, pp.585-9.

<sup>109</sup>C.A., A519, Vol. 13, pp.2-16, D'Urban to Glenelg, 9 October, 1837.

<sup>110</sup>Stockenstrom to Retief, 23 September, 1836, printed in G.T.J., 17 November, 1836. See also Cory, Vol. III, pp.350-7.

he declared himself unable to prevent their departure. He declared that if they could be happier in another country, then he would advise them to go, requesting only that they carefully consider that they were not being deceived by selfish persons who had only their own interests in view.

Retief's reply of 18 October, 1836,<sup>111</sup> informed the Lieutenant-Governor that more people had emigrated, and that if steps were not taken to protect the colonists, more would leave. Stockenstrom replied with asperity that nothing was to be gained from him by threats. The Lieutenant-Governor was a difficult and stubborn man, but he was sincere in the principles he espoused. With a deepness of feeling, but a complete disregard for Retief's sensibilities, he declared: "I would walk around the world to save this country, but will not allow myself to be moved one inch out of my road. I speak plainly because I wish it to be understood with the possibility of doubt."<sup>112</sup> Such blunt phraseology was unlikely to help reconcile uncertain and fearful colonial farmers.

An address signed by sixty-five members of Retief's district respectfully requesting<sup>113</sup> the demonstration of the government's good will and intention to secure their prosperity, instead of promises, was returned by Stockenstrom as unacceptable. Stockenstrom also rebuked Retief for having signed such a petition, which he declared "at variance with the truth." He stated that although he would do all in his power to lighten the farmers' burden, he would not do so outside of the law or of justice. In conclusion, he warned Retief that he was in possession of letters in which the Field Commandant had used "unbecoming expressions" which could lead to his dismissal, but he respected Retief and sought his support in the future task of securing the frontier. He concluded: "But if, on the contrary, you attempt to add one iota to the confusion which you yourself say has so long existed on the frontier, and threaten to trample the existing regulations under foot, - this unpleasant step will be the inevitable consequence."<sup>114</sup>

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<sup>111</sup>Ibid., Retief to Stockenstrom, 18 October, 1836.

<sup>112</sup>Ibid., Stockenstrom to Retief, 26 October, 1836.

<sup>113</sup>C.L., reproduced in the G.T.J., 17 November, 1836.

<sup>114</sup>Stockenstrom to Retief, 20 October, 1836, Printed in G.T.J., 17 November, 1836.

Retief answered Stockenstrom's letter with dignity, declaring himself a faithful colonist with a firm belief in law and order, and he indicated that had the Lieutenant-Governor been more tactful in his handling of the farmers' grievances, many obstacles would have been removed in restoring their shaken faith in the distant Colonial government. As it was Retief now threw in his hand with the trekkers and prepared the Manifesto listing their grievances and reasons for abandoning their homes and the Colony. The Manifesto was published in The Graham's Town Journal of 2 February, 1837, and led to Stockenstrom's dismissal of Retief from the colonial service. His unilateral action became the subject of another series of acrimonious despatches between Governor and Lieutenant-Governor, and finally an appeal to Glenelg.

At the centre of the controversy was the question of whose authority was relevant. D'Urban asserted, and was supported by the Attorney-General, that as he had appointed Retief to the position of Field Commandant, Stockenstrom did not have the authority to dismiss him without at first approaching the Governor. Stockenstrom retorted that Retief had been warned against fomenting "dissatisfaction against the British government", and that by publishing the Manifesto he had deliberately flouted that warning. Stockenstrom concluded: "I have little doubt that the Secretary of State (whatever his Lordship may decide about my power to dismiss Mr Retief) will have no doubt of the responsibility of those who have deceived and encouraged this poor man and so many of his fellow subjects for the scenes of blood for which they have paved the way."<sup>115</sup> Stockenstrom here referred to an unnamed 'faction' he believed were stirring up trouble on the frontier for their own selfish ends.

While it seems that Stockenstrom was over-hasty in dismissing Retief without first informing D'Urban, the question of relevant authority was again academic in the circumstances, for Retief had thrown in his lot with the trekkers, and while the colonial authorities were debating the legality of his dismissal, he left the Colony together with a considerable number of his neighbours.

Nevertheless, it seems D'Urban exaggerated the impact of Stockenstrom upon the Trek. After all, Potgieter from the Tarka with forty

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<sup>115</sup>Stockenstrom to D'Urban, 20 March, 1837, quoted in Cory, Vol. III, pp.399-400.

men and their families, and Cilliers from the Colesberg district with about twenty-five men, had crossed the Orange river<sup>116</sup> and the Trek was gathering momentum before Stockenstrom had even arrived in Grahamstown to take up his post.

Unable to stem the movement D'Urban sought instructions as to what level of relations the Colonial government was to maintain with the "emigrants in their new condition", believing that they could "scarcely be regarded in any other light than that of a separate colony."<sup>117</sup>

The Colonial Office was slow in formulating a reply, and only in April, 1838, did the new Governor, Sir George Napier, receive the reply that "they are the Queen's subjects, but subjects who have placed themselves beyond the reach of Her Majesty's Protection by measures which Her Majesty altogether discountenances and condemns."<sup>118</sup> In a despatch to Napier dated 28 November, 1837, Glenelg gave an indication of the unofficial view of the British government to the Trek when he declared its motives were the same "as have in all ages compelled the strong to encroach on the weak, and the powerful and unprincipled to wrest by fraud or force from the comparatively feeble and defenceless - wealth or property or dominion, richer pastures, more numerous herds, and a wider range of territory."<sup>119</sup> Seven years later Stephen amplified this view in a minute to Hope, an Undersecretary in the Colonial Office, dated 9 February, 1844, in response to a petition<sup>120</sup> from the Municipal Commissioners of Grahamstown requesting the re-establishment of the D'Urban settlement in place of what they considered

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<sup>116</sup>Walker, The Great Trek, pp.113; 139.

<sup>117</sup>C.A., A519, Vol. 12, pp.2-11, D'Urban to Glenelg, 29 July, 1837.

<sup>118</sup>D'Urban to Glenelg, 29 July, 1837, op.cit., p.10; Marginalia in D'Urban's handwriting noting the fact that Napier had received this official reply.

<sup>119</sup>Glenelg to Napier, 28 November, 1837, quoted in W.P. Morrell, Colonial Policy in the Age of Peel and Russell, p.24.

<sup>120</sup>Bell and Morrell, Select Documents on British Colonial Policy, pp.499-500. Petition of Municipal Commissioners of Grahamstown, 16 August, 1843. (extracts). G.W. Hope was Under-Secretary for the Colonies from 1841-1845.

the ineffectual treaty system. Stephen strongly disapproved of this request, declaring that apart from the injustice of restoring the 1835 settlement, such a policy would entail war. Stephen considered that it would be cheaper to compensate farmers for all their losses from year to year, and he declared exasperatedly: "If men will settle in the neighbourhood of wandering tribes they cannot, I think, claim of their Government that at the National expense they should be rescued from the natural penalty of that improvidence any more than the vine dressers and farmers at the foot of Vesuvius can expect indemnity against the effects of an irruption."<sup>121</sup> Hope pointed out, with a clarity of view which for once seems to have escaped Stephen, that "these districts were not taken possession of as N[ew] Z[ealand] without encouragement or authority from Gov[ernment] but were actually settled by means of a Gov[ernment] Emigration directed specially to the spot."<sup>122</sup>

The basic contradiction in the attitude of the British government towards the problems of the eastern frontier and the Trek was thus exposed. The movement was deplored as selfishly motivated and potentially disastrous in its consequences on the tribes in the interior and the impact such disturbances would have on the Colony. Yet unwilling to forgo its view of the Cape trekkers as British subjects, the British government contented itself with the statement of that fact and the passing of the Cape of Good Hope Punishment Act. The Act was in part an effort to assuage the concern of the humanitarians and to reconcile such concern with the increased responsibility that it could lead to in what was considered the commercially worthless Cape hinterland. The provision of the means to enforce the Act was neglected and it thus in no way contained or could have contained the Trek. In the immediate post-1836 situation at the Cape it did little more than sanction the arrest of offending British subjects beyond the frontier, and provide for their trial in the Cape Colony. In later years, however, the Cape of Good Hope Punishment Act proved a useful adjunct to the unusual powers of the Cape Governor in his

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<sup>121</sup>Ibid., pp.500-1, Stephen to Hope, 9 February, 1844.

<sup>122</sup>Ibid., pp.501-2, Hope to Stephen, 10 February, 1844.

role as High Commissioner,<sup>123</sup> and was thus not as ultimately ineffectual as it has been sometimes portrayed.<sup>124</sup>

But in describing the position of Captain Gardiner,<sup>125</sup> one of the first magistrates appointed under the Act in the unofficial British settlement of Port Natal, D'Urban declared that although the Act vested Gardiner "with a legal right to do certain acts of subordinate police, it gives him no power either in means or money, or any sort of machinery to execute them; still less does the Act of Parliament bear any authority to regard him as holding any political or executive agency among the British subjects who have established themselves at Port Natal."<sup>126</sup>

D'Urban was understandably annoyed about the absence of an effective British presence at Port Natal. As early as 17 June, 1834, he had forwarded to the Colonial Office a petition from Cape merchants requesting the official establishment of a settlement at Port Natal. D'Urban favoured such a measure,<sup>127</sup> initially to pre-empt the designs of any foreign power like the United States of America on Port Natal's natural harbour, its strategic location on the east coast of Africa, and its access to the commercial possibilities of the hinterland. However, the Secretary of State declared the Crown was disinclined to sanction a further increase of its responsibilities, particularly in the state of the Cape's finances.

Increasingly thereafter D'Urban came to see<sup>128</sup> Port Natal as a useful base in the rear of the Xhosa, and a convenient monitor on the

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<sup>123</sup>See J.A. Benyon, 'Basutoland and the High Commission with particular reference to the years 1868-84: The changing nature of the Imperial Government's 'special responsibility' for the territory', pp.40-45.

<sup>124</sup>For example, Macmillan, Bantu, Boer and Briton (1963 edit.), pp.212, described the Act as "a dead letter".

<sup>125</sup>Allen Francis Gardiner (1794-1851), former naval officer turned missionary who worked first at Port Natal, and later in South America. See D.S.A.B., Vol. II, pp.254-5.

<sup>126</sup>D'Urban to Glenelg, 26 July, 1837, quoted in John Bird, Annals of Natal, Vol. I, pp.324-5.

<sup>127</sup>P.P., 1835, XXXIX, (252), pp.93-102, D'Urban to Stanley, 17 June, 1834.

<sup>128</sup>E.H. Brookes and C. de B. Webb, A History of Natal, p.29. Also C.L., MSS 6773, D'Urban to Glenelg, 4 December, 1835.

Boer farmers coming down from the Drakensberg Mountains. The Colonial Office, concerned with questions of finance, was deaf to his pleas, and instead suggested that Gardiner be commissioned a Magistrate under the Punishment Act. Gardiner's request of March, 1837, for weapons, constables and a secure gaol to assist in carrying out his duties was considered at the Executive Council meeting of 20 March, 1837.

The Council reluctantly rejected Gardiner's request, declaring His Majesty's Government had clearly defined<sup>129</sup> the status of Port Natal, now renamed D'Urban by the inhabitants in honour of the Cape Governor. But the Council recorded its opinion that while the provisions of the Act might prove useful in the territories immediately adjacent to the Colony "they will be found inoperative in the more distant regions thereby included in the jurisdiction of the colonial courts, from the extreme difficulty of bringing criminals to trial and procuring witnesses."<sup>130</sup>

A later petition<sup>131</sup> from twenty British subjects requesting annexation, and a letter from Gardiner dated 27 October, 1837, reporting the arrival of Retief and some trekkers, and outlining the dire consequences of the existence in Natal of a well-armed group avowedly hostile to British interests, were likewise rejected by the Council on 16 December, 1837. But the influx of British subjects into Natal and their conflict with the Zulus beginning in February, 1838, stirred the new Governor, Sir George Napier, to win grudging approval<sup>132</sup> from Glenelg to occupy D'Urban with a strong military detachment, which he did in December, 1838. Over the next seven years the British hesitantly but increasingly entered into the affairs of the infant Boer republic of Natalia, and finally annexed the area in 1844-5.

Within the Eastern Districts Stockenström was not a popular choice for the position of Lieutenant-Governor. His evidence before the Aborigines Committee had inflamed frontier opinion even before his

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<sup>129</sup>Glenelg to D'Urban, 26 September, 1836, quoted in the Ex.Co. minutes, 20 March, 1837.

<sup>130</sup>C.A., Ex. Co., I, 20 March, 1837.

<sup>131</sup>Ibid., 16 December, 1837.

<sup>132</sup>Bird, Annals, Vol. I, pp.394-9, Napier to Glenelg, 18 May, 1838, pp.423-8; Napier to Glenelg, 30 November, 1838.

arrival. The Graham's Town Journal of 8 September, 1836, published the resolutions of a public meeting held in the town several days previously. One resolution unequivocally denied

the fact stated by Captain Stockenstrom in his evidence before the Committee of the House of Commons that the British settlers of Albany have 'very often' served on commandoes [sic], or that they have in anyway participated in those atrocities which he has described as being of frequent occurrence on such expeditions - atrocities which are utterly disclaimed and abhorred by them, and with reference to which they now challenge, in the face of the world, the production of a single case in proof of any such allegation. 133

The editorial of that issue detailed Stockenstrom's entry into Grahamstown, and described how that night out of one thousand houses, only those of two of Stockenstrom's friends had been illuminated. The editorial concluded ominously: "It is saying a good deal for the correct feeling and good order of the Town, to observe that they were permitted to indulge their fancies without any of those marks of disapproval which are too customary at times to public excitement, when persons are quixotic enough needlessly to place themselves in array against public opinion."<sup>134</sup>

An address presented by Grahamstown residents also requested Stockenstrom to justify his evidence before the Aborigines Committee of the poor treatment of the "coloured classes within the Colony" and the tribes without which had led the Cape colonists, especially of the frontier districts "to be reproached by their country with having brought disgrace upon the British name, or acted inconsistent with the requirements of humanity and justice."<sup>135</sup>

Stockenstrom refused to accept the address, declaring the colonists' rights as British subjects did not create them judge and jury in a cause in which they constituted themselves plaintiff, and the Lieutenant-Governor defendant. He stated: "Before competent authority and an impartial public I shall justify my official acts and words and

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<sup>133</sup>C.L., Report of the Public Meeting, 6 September, 1836, published in G.T.J., 8 September, 1836.

<sup>134</sup>Ibid.

<sup>135</sup>C.L., The Albany Address, presented by W.R. Thompson, 3 September, 1836, published in G.T.J., 8 September, 1836.

defend my opinions; and it is but candid to inform you that I am determined to act strictly up to the latter, without thirst for popularity or dread of the contrary..."<sup>136</sup>

The battle lines were thus drawn and Stockenstrom's opponents proved to be as vindictive as he was stubborn.

Prior to his arrival, the Lieutenant-Governor had been accused by one Klopper of having murdered several Xhosa tribesmen while on commando in 1813. In August and September, 1836, the affair was investigated by Campbell in his official capacity of Resident Magistrate, and affidavits were taken. But certain irregularities occurred in that the depositions taken from Klopper and two men who claimed to have witnessed the event - a certain Pretorius and one Botha - were not lodged for transmission to the Attorney-General for further action, and Klopper's deposition was sent to Lieut.-Colonel Wade for presentation before the Aborigines Committee. Even someone as partisan as Cory noted that there was some "irregularity if not illegality" connected with the issue, and could declare that "the alleged offence, if offence there were, was committed beyond the boundary of the Colony, and therefore outside the jurisdiction of the Civil Commissioner of Albany who in consequence acted ultra vires in taking the depositions at all."<sup>137</sup>

Stockenstrom decided to bring a libel action against Campbell, partly to vindicate his honour, and partly it seems because he suspected the existence of a conspiracy not only against him personally, but against his frontier policy, and he believed breaking Campbell would damage if not destroy that conspiracy. Stockenstrom clearly thought there were men who hoped that the unsettled state of the frontier, reduced troop numbers and the emigration of the Dutch farmers would lead to the reversal of the treaty system and the restoration of the public expenditure to a war footing. In a despatch dated 9 May, 1837, to D'Urban, Stockenstrom declared the existence of a

desperate, disappointed, unprincipled Faction in the Colony ready to sacrifice the tranquillity and happiness

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<sup>136</sup>C.L., Stockenstrom to W.R. Thompson, Esq., 3 September, 1836, published in G.T.J., 8 September, 1836.

<sup>137</sup>Cory, Vol. III, p.339.

of the Colony, and of surrounding nations to their thirst of revenge... Their industry in fomenting dissensions and imitating and reviling those with whom the King sought reconciliation and peace, was only equalled by the engenuity [sic] with which they invented the most disgraceful false alarms and the dastard insolence with which they defame His Majesty's Minister and all others who dared approved of and support his measures. 138

Stockenstrom made frequent allusions<sup>139</sup> to this 'unprincipled faction' in his despatches during the remainder of D'Urban's governorship. But he never seems to have been able to substantiate his claims. In his Diary, Stretch,<sup>140</sup> the Resident Agent to the Ngqikas, made the interesting observation that much of the colonial clamour against the treaty system was to prevent the military expenditure being withdrawn from the Colony, a possibility the Grahamstown contractors dreaded. "The robbery of the Caffers is nothing, 'a flea bite' if we can keep the troops and rob the tax-payer in the United Kingdom..."<sup>141</sup>

Nevertheless, as Stretch stated in his Memorandum, Stockenstrom's attention was considerably diverted from the great object of his appointment owing "to clamour, lawsuits and enquiries, which consequently in proportion deprived me of his able assistance in the direction of the arduous and responsible duty which this unfortunate event imposed on me. The treaties were in consequence imperfectly worked during his administration..."<sup>142</sup>

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<sup>138</sup>C.A., A519, Vol. 11, pp.74-80, Stockenstrom to D'Urban, 9 May, 1837.

<sup>139</sup>See, for example, C.A., A519, Vol. 13, pp.130-41, Stockenstrom to D'Urban, 23 August, 1837; pp.23-7, 31 August; pp.79-81, 22 September, 1837.

<sup>140</sup>Charles Lennox Stretch (1797-1882), soldier, Ngqika Agent, and Cape politician, principally known for his defence of the Treaty System in his Diary and Memorandum. See D.S.A.B., Vol. II, pp.721-2.

<sup>141</sup>Stretch, Diary, Transcribed in the thesis of G.B. Crankshaw, 'The Diary of C.L. Stretch - A Critical Edition and Appraisal'. Stretch's Memorandum is also transcribed in this thesis. The Diary, Memorandum and thesis are all numbered separately in that order, the first from pp.3-350, the second from questions 1-20, and the last from pp.1-155.

<sup>142</sup>Ibid., Memorandum transcription, introductory paragraph.

The case of Stockenstrom v Campbell was heard before the Cape Supreme Court on 28 February and 1 March, 1838. The Court gave judgement in favour of Campbell, with costs, on the grounds that as Resident Magistrate he had only done his duty in investigating the charge of murder. This verdict led to triumphant celebrations in the Eastern Districts. A Court of Inquiry<sup>143</sup> held in May, 1838, exonerated Stockenstrom of any charge of murder, and declared that he had "acted according to orders and the established warfare against the Kaffirs."<sup>144</sup>

Stockenstrom found it impossible to continue to work in such a hostile environment, and obtained leave of absence shortly before the close of the Inquiry to travel to England and present his resignation. Although Glenelg persuaded Stockenstrom to continue as Lieutenant-Governor, Glenelg was himself forced to resign from office in February, 1839, and was replaced by Lord Normanby. Normanby appeared at first willing to confirm Glenelg's appointment, but on review he informed Stockenstrom:

The feeling of distrust and alienation towards you, which I learn from the Governor have unhappily taken sudden deep root in the minds of a large proportion of the colonists, as to deprive your services of the value which would otherwise belong to them, and as even to convert exertions in themselves the most meritorious into sources of discontent and disaffection to the Government.

Thus he declared: "I have felt it my duty to submit to the Queen that it is not expedient that you should resume the Government of the Eastern Division of the Colony of the Cape of Good Hope."<sup>146</sup> Yet in the eyes of the British government, Stockenstrom was by no means disgraced, and as compensation for the loss of his position at the Cape, he was offered a governorship in the West Indies. Stockenstrom refused the post in preference to a pension and a knighthood. He returned to the Cape in 1840, and remained a figure of controversy until his death in 1864.

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<sup>143</sup>Requested of Glenelg by Stockenstrom in early 1837, and only consented to by Glenelg in his despatch of 19 December, 1837. Cory, Vol. III, p.442.

<sup>144</sup>Ibid., p.445.

<sup>145</sup>Secretary of State for War and the Colonies, February, 1839 - September, 1841.

<sup>146</sup>Normanby to Stockenstrom, 31 August, 1839, quoted in Cory, Vol. III, p.446.

Stockenstrom's Lieutenant-Governorship in Cape history was not a felicitous period. His strained relations with both D'Urban and the colonists divided his attentions, and his treaty system was popular with few people.

Accounts as to its success vary. Stretch claimed it worked well, especially in the early years, and that the modifications made first by Napier in December, 1840, and Maitland in the period October, 1844, to January, 1845, undermined the system's value. Legally the treaty system lasted until 23 December, 1847, when Sir Harry Smith proclaimed the annexation of British Kaffraria and the abrogation of the system.

In his thesis on Stretch's Diary, Crankshaw maintained that the rate of depredations during the period of the Glenelg-Stockenstrom system compared favourably with the rate of depredations in previous periods of frontier administration. He pointed out that whereas stolen property had been recovered previously by military patrols and commandos "the basic provision of the treaty policy was that this [the recovery of stolen property] should be effected by colonial Agents in concert with the Kaffir chiefs."<sup>147</sup> Crankshaw declared that the depredations listed in Stretch's Diary represented "approximately one-third of all reclaimable cases which occurred along the total length of the frontier during the full duration of the treaty system; and these cases falling under Stretch's supervision were settled in virtually all instances."<sup>148</sup> In Crankshaw's opinion, therefore, Agent and Chief often worked successfully and in good faith for the restoration of property proved to have been stolen, and asserted that it was Stretch's contention that as far as depredations were concerned, the clamour of the colonists against the Xhosa and against the treaty system had no justification.<sup>149</sup>

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<sup>147</sup>Crankshaw, op.cit., Thesis, p.72. With regard to "non-reclaimable" cases, however, it is clear that colonial claims were rarely met by the Xhosa. And with a certain amount of reason, as the "non-reclaimable list" instituted by Napier in January, 1839, to reflect those colonial losses which could not be claimed under the provisions of the treaties because the stock had not been adequately guarded or the spoor of the thieves followed up timeously to the border, soon became a list for any stock lost and unaccounted, whether to predators, thieves within the Colony or Xhosa action. This distinction was ignored by that section of colonial opinion who opposed the treaty system, and who used the "non-reclaimable list" as evidence for the chiefs' lack of good faith.

<sup>148</sup>Ibid., p.75.

<sup>149</sup>Ibid., Diary transcription, p.342.

The Glenelg treaty policy never aimed per se to set up a completely foolproof border system. It reckoned on the continued occurrence in some degree of frontier depredations, recognizing that such contingencies were unavoidable in a newly settled frontier area. Nevertheless, the making of treaties of peace with the independent tribes aimed positively and firmly at the prevention of serious disturbances on the frontier...<sup>150</sup>

The weight of evidence regarding the attitude of the border chiefs to the treaty system seems to indicate their approval, at least in its initial stages. Predictably Stretch declared that the chiefs gave it "their hearty concurrence and goodwill", and declared that this had not been the case in D'Urban's settlement which "the native authorities opposed...as supplanting their rank and authority among the people... The agent decided all cases, and the cattle levied as fines were placed at the disposal of the government, whereby the chief's influence and cattle kraal was diminished."<sup>151</sup>

Stretch's statements were largely corroborated by Dr Andrew Smith, who in 1834, had agreed to act on behalf of the Colonial government in making friendly overtures to the tribes living to the north of the Orange River while leading an expedition in that area. Before the 'Select Committee of the Commons on Kaffir Tribes' in June, 1851, Smith stated:

I saw some of the Kaffirs after the war was ended (the D'Urban war) and they were exceedingly dissatisfied touching the province of Adelaide and the war. They said they never of their own accord asked for peace, and they complained of their having been brought into subjection, not in a fair way. They considered advantages were held out to them by persons who were sent to them to sue for peace, and that when peace was established, they did not get those advantages and privileges they were led to expect. <sup>152</sup>

Concerning the introduction of the treaty system, Smith stated that he had heard that the Xhosa "were very much satisfied and considered that an act of justice had been done."<sup>153</sup>

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<sup>150</sup>Ibid., Thesis, pp.95-6.

<sup>151</sup>Ibid., Memorandum transcription, 1.

<sup>152</sup>P.P., 1851, XIV, (635), Q2204, p.295. A. Smith, M.D., before the Committee.

<sup>153</sup>Ibid., Q2200, p.294.

There can be no doubt that the frontier was seething with unrest in 1836,<sup>154</sup> but whether this was because of incessant rumours of renunciation as D'Urban claimed,<sup>155</sup> or due to a fundamental dissatisfaction with the D'Urban settlement, as Stockenstrom claimed,<sup>156</sup> is not clear. Both ingredients were probably present. The situation was further aggravated with news of the 'massacre plot' which Stockenstrom reported to D'Urban in a despatch dated 11 October, 1836. He reported that Lieut.-Colonel Somerset had brought to him the Chief Kobe who stated that "it had been seriously intended to assassinate all the troops and other white people at the meeting with Colonel Smith and myself at King Williamstown and that the attempt was only prevented by Umhala refusing his assent."<sup>157</sup>

With news of the impending implementation of the treaty system, Stockenstrom predictably claimed the situation had been defused, and the Chiefs were "entirely satisfied with the views and intentions of His Majesty's Government."<sup>158</sup> The Xhosa were certainly dismayed at the dismissal of Stockenstrom, and the story is well known of how the Ngqika chiefs in January, 1840, informed the Lieutenant-Governor, Hare, that if Stretch was removed they would not receive anyone in his place.<sup>159</sup> Crankshaw adduced these facts to support the view that the border tribes approved of, and supported, the treaty system, but it could quite simply have been a case of preferring the devil they knew, for both Stretch and especially Stockenstrom seem to have had a reputation

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<sup>154</sup>This is clear from the reports of the Agents Bowker and Southey. See Smuts, 'The Lieutenant-Governorship of Andries Stockenstrom', p.76, quoting Bowker to Hudson, 10 May, 1836; Southey to Hudson, 28 March, 1836.

<sup>155</sup>For example, P.P., 1837, XLIII, (503), p.68, D'Urban to Glenelg, 9 June, 1836.

<sup>156</sup>For example, in Stockenstrom to D'Urban, 14 September and 3 November, 1836. Quoted in Crankshaw, *op.cit.*, p.48.

<sup>157</sup>Stockenstrom to D'Urban, 11 October, 1836. Quoted in Crankshaw, *op.cit.*, p.98.

<sup>158</sup>Stockenstrom to D'Urban, 15 November, 1836. Quoted in Crankshaw, *op.cit.*, p.98.

<sup>159</sup>Crankshaw, *op.cit.*, p.103.

for fair play. Ultimately, however, the concept of a treaty system was tarnished by the outbreak of the War of 1846-7, and the conclusion of the conflict was again followed by annexation.<sup>160</sup>

Cory commented caustically that "the only real satisfaction Stockenstrom gave the colonists was his resignation."<sup>161</sup> Yet even Cory had the grace to note that he was "an indefatigable worker and punctilious in the discharge of all his duties - virtues which were not conspicuous in all Government officials of the time." Cory also pointed to Stockenstrom's insistence that magistrates be more attentive to the interests and convenience of the public; his increase of the number of magisterial posts, and his concern for the establishment of more and better schools. "In all these things he deserved well of the Eastern Province."<sup>162</sup>

D'Urban's hostility towards Stockenstrom was understandable, although unpardonable in many respects. It must be emphasised that D'Urban seems to have restrained his hostility to verbal duels from a distance, and it is improbable that he stooped to any covert form of action designed to wreck Stockenstrom's treaty arrangements. His consideration for the security of the Colony was too great to allow that. Against the criticism that he delayed the transmission to the Secretary of State of the Lieutenant-Governor's despatches, as he was required to do in terms of the Instructions of 5 February, 1836, D'Urban had some excuse.

Stanley's economy measures had reduced the administrative structure of the Colonial Office in Cape Town, while the establishment of the Lieutenant-Governorship had doubled the amount of transcribing required before despatches could be sent to England. When D'Urban handed over his office in January, 1838, Stockenstrom's "voluminous correspondence" for the previous two quarters had not been sent to the Colonial Office. In a covering letter<sup>163</sup> which was to accompany this correspondence

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<sup>160</sup>See p.345.

<sup>161</sup>Cory, Vol. III, p.446.

<sup>162</sup>Ibid.

<sup>163</sup>C.A., A519, Vol. 14, pp.89-94, D'Urban to Glenelg, 20 January, 1838.

once it had been transcribed, D'Urban blamed the delay on the "sickness of some of the Clerks and the general weakness of the establishment with relation to the laborious duties of the Department." D'Urban could see no "inconvenience to the service" as he had already forwarded all despatches requiring Glenelg's early attention, while all others which required the Governor's attention had been handled.<sup>164</sup>

As was his manner, Stockenstrom frankly expressed his difficult relationship with D'Urban when he wrote on 18 January, 1837: "I assure your Excellency that it is to me a source of unqualified regret that I have hardly in any instance since assuming the Government of this division been fortunate enough to render myself intelligible to, or my act approved by, your Excellency." With typical self righteousness, he concluded: "I have however the consolation to know that I have most assiduously studied both these points."<sup>165</sup>

Both D'Urban and Stockenstrom were men of principle, both were stubborn, both believed firmly in the efficacy of their respective settlements, and neither was prepared to submit gracefully to the other once the battle lines had been drawn, particularly when questions of authority were concerned. D'Urban naturally believed himself aggrieved over the way in which the settlement he believed he had formulated in the Colony's best interests had been overthrown.

If the finer points of D'Urban's frontier policies and his relationship with Stockenstrom do not bear the strain of close scrutiny, for reasons of a very human nature, his general administration of the Cape Colony does, and confirms the general view of D'Urban as a capable and conscientious Governor.

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<sup>164</sup>Stockenstrom's correspondence for the period July-December, 1836, was sent under cover of the despatch of 15 March, 1837, received at the Colonial Office on 20 June, 1837. His correspondence for the first quarter of 1837, sent under cover of the despatch of 29 July, 1837, was received on 9 October, 1837. That for the second quarter of 1837 was sent under cover of the despatch dated 11 October, 1837, and was received at the Colonial Office on 2 February, 1838. C.A., A519, Vol. 29, pp.79-89, 'List of despatches sent to England, 1837-8'.

<sup>165</sup>Stockenstrom to D'Urban, 18 January, 1837, quoted by Roxborough, 'Colonial Policy on the Northern and Eastern Frontiers...', p.197.

CHAPTER EIGHT

THE GENERAL DEVELOPMENT OF THE CAPE:

1834 - 1838

D'Urban was the instrument of the Crown's will and considered policy, but the responsibility for the success or failure of that policy when implemented was largely his. If he succeeded he had performed his duty. But in a colony like the Cape, where in the 1830s the eyes of the British Parliament and Treasury kept a close watch on the interests of its aboriginal inhabitants and on its finances, failure was more than neglect of one's duty. It very often meant disgrace, and D'Urban's handling of the frontier and its subsequent issues led to his disgrace and dismissal. The reasons for this have been considered earlier, and this chapter turns the focus on D'Urban's infrequently considered measures for domestic administration. In these measures he generally displayed the sure and positive touch of the skilled administrator, no doubt drawing on his experiences in the West Indies and British Guiana. In the Cape's social history D'Urban is remembered principally for his successful implementation of slave emancipation and the introduction of municipal government. The Municipal Government Ordinance of 1836 was an important measure and reflected an unusually fine balance between the desire to achieve economic government and the awareness, both in Britain and the Cape, that the Colony was ready for the devolution of certain local powers. Economy dictated the combining of the offices of Civil Commissioner and Resident Magistrate; increased responsibilities of this one man in turn necessitated relieving him of other less important local duties. Certainly local administration and the establishment of a water system for Cape Town had caused Bell to describe the issue as "an extra-ordinary business of Government."<sup>1</sup>

D'Urban's governorship coincided with events of profound significance for the future history of southern Africa, and historians have often viewed his governorship as they relate to these events, principally the war of 1834-5, his frontier settlement and its abandonment, the subsequent treaty system and the Great Trek. There can be no doubt that these events exerted a profound influence on the routine administration

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<sup>1</sup>C.A., A519, Vol. 2, pp.30-2, Bell to D'Urban, 22 May, 1835.

of the Colony, mainly to its detriment, and the impoverishment of its already infirm treasury. During the period of D'Urban's absence on the frontier from 8 January to 30 December, 1835, the Executive Council met on seven occasions,<sup>2</sup> usually in an attempt to meet the deteriorating financial situation. The Legislative Council met once - on 15 January, 1835<sup>3</sup> - to finalise the rules for the internal regulation of gaols at the police settlements established under the Apprenticed Labourers Ordinance. Thereafter the Council was prorogued by Colonel Bell in his capacity as head of the Provisional government, and did not meet again until 6 April, 1836.

By a Proclamation dated 3 January, 1835, D'Urban had constituted Bell head of the Provisional government

to carry on the usual business of the Government...by and with the advice and consent of the Executive Council ...with full Power to assemble the Legislative Council and preside therein under the eleventh Clause of the Royal Instructions,<sup>4</sup> and to propose to, and pass therein, all such Enactments as to such Provisional Government shall seem expedient and necessary...<sup>5</sup>

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<sup>2</sup>13 January: The Council considered aspects of the Apprenticeship Ordinance, and matters arising from the government's claim on Stoll's estate.

19 February: Council considered a memorial from Grahamstown merchants on the loss of the frontier trade and their request for a government loan.

6 April: A request for a loan from the Commissariat was considered.

21 September: Joseph Harvey, the Crown's appointee as Treasurer, Accountant-General and Registrar of Deeds was introduced.

29 September: The Council was informed of the Treasury's "approaching embarrassment", and considered means of meeting the crisis.

6 October: Council again considered the problem of the military chest's insolvency and the Colonial Treasury's inability to assist.

8 October: Financial problems again dominated, and the Council advised raiding the private fund of the defunct Orphan Chamber to assist.

In 1834, the Executive Council met on twenty occasions, in 1836, on seven, and in 1837, on twelve. C.A., Ex. Co., I.

<sup>3</sup>C.A., Leg. Co., I, 15 January, 1835.

<sup>4</sup>G.H. 1/96, p.21, Instructions, 8 November, 1833, Clause 11: "...at any meetings of the [Legislative] Council which may be holden during your absence, We do authorise and require the Senior member present to preside..."

<sup>5</sup>Proclamation by the Governor, 3 January, 1835, published G.T.J., 16 January, 1835.

The Provisional government was restricted only in its power to impose any sentence of death, banishment or transportation, or to issue its own warrants on the Colonial Treasurer and Accountant-General for the issue of public money from the Colonial Treasury.

The entire period of D'Urban's absence was marked by a conspicuous lack of ordinances passed in Cape Town by due process, and dealing with 'bread and butter' issues. This absence of legislative activity was in spite of the fact that the Provisional government possessed the authority to enact such ordinances. The crucial importance of the Governor in the fundamental processes of administration was thus underlined, as was the unwillingness of the Provisional government to act without him in anything more complicated than daily management, or in the gravest emergency.

In 1834, nine ordinances had been passed while in 1836 and 1837, fourteen and thirteen ordinances respectively were passed.<sup>6</sup> The fact that the numbers of ordinances passed before and after the war were roughly equal, and dealt roughly with similar topics, would seem to indicate that in the post-war period, despite his interminable wrangling with Stockenstrom and Glenelg, D'Urban continued to oversee the routine and mundane matters of administration with as much efficiency as he had done prior to the war.

Much of D'Urban's legislation in 1835 was in the form of proclamations,<sup>7</sup> which he was empowered to issue as chief executive and in terms of his Commission and Instructions. The Cape of Good Hope Blue Book for 1835 listed thirty-one proclamations for that year, ranging from the proclamation of martial law in the Eastern Districts (3 January)

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<sup>6</sup>See Appendix 6.

<sup>7</sup>Proclamations were the exercise of the Governor's authority, derived from his Commission and Instructions, duly published directing or allowing something to be done or prohibiting the doing of something. An ordinance was a legislative enactment passed by the Governor-in-Council, and for D'Urban this meant both his Executive and Legislative Councils. See A. Milne, C. Cooper, B.D. Burne, Bell's South African Legal Dictionary, 3rd edit., p.635; also J.B. Saunders, Words and Phrases Legally defined, 2nd edit., p.43; J.J.S. Wharton, Wharton's Law Lexicon, p.531; 601. Both forms of legislation, proclamation and ordinances, had to be submitted for the Crown's approval.

to the definition of the limits of the "several special districts" (6 January) established under the Apprenticed Labourers Ordinance, and the offer of a reward of £50 "for such information as shall lead to the conviction of the perpetrator of the murder upon a Hottentot named Hans" (22 January) to the "establishment for a Branch for the registration of marriages at Fort Beaufort" (25 June).<sup>8</sup> Many of the other proclamations were concerned with the destruction of rixdollars and the introduction of sterling paper currency in their stead.

The rich and often entertaining correspondence of Colonel John Bell to D'Urban on the frontier indicates the way in which the Provisional government carried on the administration. Bell, in an increasing stream of letters, informed D'Urban of everything of importance which had reached his ears, together with duplicates<sup>9</sup> of the despatches he had received from England. Bell's letter of 13 February, 1835,<sup>10</sup> had included a despatch about the accountability of Government house furniture, vouching to his thoroughness, and the unending burden of the Governor in all aspects of administration, even when fighting a war. Bell also made constructive suggestions, like the utilisation of the Cape Storm Fund, established by Lord Charles Somerset in 1822 with funds from the British Treasury for the immediate alleviation of distress on the frontier.<sup>11</sup>

But it was D'Urban who made all the major decisions, even if it only meant according them formal authorisation, as with Bell's suggestion concerning the Storm Fund.<sup>12</sup> Minor matters also came under his purview. In reply to Bell's request<sup>13</sup> for authority to sell the lion and lioness kept in Cape Town, at government expense, to a Mr Tennant,

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<sup>8</sup>C.G.H.B.B., 1835, pp.65-70.

<sup>9</sup>For example, C.A., A519, Vol. 3, pp.82-3, Bell to D'Urban, 22 October, 1835, included a comprehensive list of all despatches recently received at the Cape per the sailing ship 'Wellington'.

<sup>10</sup>C.A., A519, Vol. 1, pp.88-9, Bell to D'Urban, 13 February, 1835.

<sup>11</sup>C.A., A519, Vol. 1, pp.84-7, Bell to D'Urban, 30 January, 1835.

<sup>12</sup>C.A., A519, Vol. 18, pp.40-2, D'Urban to Bell, 6 February, 1835.

<sup>13</sup>C.A., A519, Vol. 1, pp.103-5, Bell to D'Urban, 27 February, 1835.

D'Urban assented, and declared: "I have no choice of sending these fine animals to the Queen's Garden, therefore close, if you will, with Mr Tennant's proposal."<sup>14</sup> On 20 March Bell humorously replied: "I have just issued an order for the political removal of the Lions - if they will go, which seems doubtful!"<sup>15</sup>

It should be borne in mind that D'Urban was called upon to handle these matters at a time when a variety of important issues demanded his careful attention - initially organising the relief of the destitute in Grahamstown, and planning the invasion into the trans-Keiskamma territory, he later formulated his May and September policies, and had always to consider the many tasks connected with his duty as Commander-in-Chief of the Cape forces. Very often, too, the despatches from Bell would have been read, considered and actioned in the uncomfortable surroundings of a military bivouac in the African bush. The duties of a Cape Governor could thus be heavy for a single man to bear, particularly when he had to take into careful consideration the manifest limitations of subordinates like Smith, Campbell, and Somerset.

The 'bread and butter' issues of D'Urban's governorship are hardly the stuff of controversial or indeed profound and significant historical analysis, as are D'Urban's frontier settlement and the subsequent treaty system. But they are important in determining the effectiveness of D'Urban as a Cape Governor. Although a secure and settled frontier was crucial to the stability and prosperity of the Colony, it was not the only element D'Urban had to consider in the general formula of administration. If the Colony's infrastructure was to retain and expand its strength to meet and resolve its frontier problems, taxes had to be paid, towns and villages superintended, markets and pounds regulated, public health supervised, postal services kept up, customs duties enforced, and, hopefully, the colonial budget balanced in some way.

One of D'Urban's greatest successes in domestic administration was his institution of municipal government and the devolution of some of these services onto the newly created municipal councils.

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<sup>14</sup>C.A., A519, Vol. 18, pp.55-8, D'Urban to Bell, 13 March, 1835.

<sup>15</sup>C.A., A519, Vol. 1, pp.119-21, Bell to D'Urban, 20 March, 1835.

As with all things of importance that D'Urban was instructed to implement at the Cape, the idea of municipal government was not a new one to colonial administration. It had been mooted by Goderich as early as 1831 when retrenchment seemed to necessitate the merging of the offices of Resident Magistrate and Civil Commissioner.

During the period of the Dutch East Indian Company's rule, boards of Landdrost and Heemraden exercised the powers<sup>16</sup> of civil and judicial administration in the districts. The Landdrost was an appointed and paid official of the government in Cape Town; four and later six Heemraden were nominated by the government to assist him in his duties. The Commissioners of Enquiry,<sup>17</sup> appointed by the British Parliament to inquire into the affairs of Mauritius, Ceylon and the Cape, discovered that it was "very difficult to select persons who possessed a sufficient knowledge of judicial business, to administer law with any degree of correctness", and stated that in cases involving coloured people, the impartiality and sense of justice possessed by the Heemraden "were much perverted by the prejudices and habits that have become almost hereditary amongst them."<sup>18</sup> As part of the overhaul of the administration at the Cape, which had remained largely unchanged since the last days of the Dutch regime, the Commissioners recommended the abolition of the offices of Landdrost and Heemraden. This was accordingly implemented in 1828, and their judicial function passed to Resident Magistrates, while Civil Commissioners were appointed to fulfil their administrative duties.

In 1831 Goderich informed Cole of the Colonial Office's concern for the Cape's financial deficit, and the need to limit expenditure accordingly. One of the economy measures he proposed was the merging of the offices of Civil Commissioner and Resident Magistrate, and the

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<sup>16</sup>See P.P., 1827, XXI, (282), 'Reports of the Commissioners of Enquiry, I, Upon the Administration of the Government at the Cape of Good Hope', pp.17-22 for a list of these powers and duties.

<sup>17</sup>Initially in 1823 J.T. Bigge and W.M.G. Colebrooke, and also from 1826, W. Blair. Appointed by the British Parliament to inquire into the whole state of the Cape, Mauritius and Ceylon, these Commissioners of Eastern Inquiry arrived at the Cape in July, 1823, and left in 1826. Their reports on the Cape were ordered printed by the House of Commons on 1 May, 1827.

<sup>18</sup>P.P., 1827, XXI, (282), 'Reports of the Commissioners of Enquiry', I, p.38.

revival of boards of Heemraden to assist the single office thus created. Cole opposed this measure because he considered it unnecessarily demanding of one man to hold the two offices simultaneously. He also pointed out that a restoration of Heemraden to their judicial functions would be legally objectionable and cumbersome in the matter of tax collection. "If appointed by Government, the Heemraden would be regarded as it's creatures, and be worse than useless - if elected by the people they would instantly claim the full exercise of their former functions (now assigned to Judges and Magistrates)...and become mischievous."<sup>19</sup> Instead, Cole suggested towns should be allowed to manage their own local affairs, and to levy rates for the purpose, subject to the approval of the Governor-in-Council.

A despatch to D'Urban from Spring Rice, dated 4 July, 1834, referred to Goderich's earlier proposals and Cole's objections, and declared that the instructions<sup>20</sup> for consolidating the functions of Resident Magistrate with those of Civil Commissioner had precluded "all further discussion as to the propriety of an arrangement which has now, in fact, become indispensably necessary."<sup>21</sup> It was clear that in part the Colonial Office saw the granting of a degree of local autonomy to mean the reduction in the work-load of the Civil Commissioner, burdened as he now was with the duties of a Magistrate, and the consequential improvement of the chance of success for the new measures of retrenchment.

The Governor was therefore instructed to revive "the several local boards of Heemraden or Municipal Councillors."<sup>22</sup> It seems the Colonial Office had taken note of Cole's objections concerning the Heemraden in judicial and financial affairs, for D'Urban was specifically informed of the necessity, in the light of the changes made in the Colony's judicial institutions and the methods of tax collection, "to modify and clearly

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<sup>19</sup>Cole to Goderich, 6 January, 1832, quoted by K.S. Hunt, 'The Development of Municipal Government in the Eastern Province of the Cape of Good Hope with special reference to Grahamstown', A.Y.B., 1961, p.143.

<sup>20</sup>C.A., G.H. 1/98, Stanley to D'Urban, 31 December, 1833.

<sup>21</sup>C.A., G.H. 1/100, Spring Rice to D'Urban, 4 July, 1834, p.91.

<sup>22</sup>Ibid., p.91.

to define the duties of the board",<sup>23</sup> so that they had no influence in these matters.

Instead, these boards were to be invested with authority

to provide for the construction and repair of publick [sic] buildings, roads, streets, water-courses, and bridges, and for paving, lighting and watching the respective townships. For all these purposes, they should be empowered, with the sanction of government, to levy rates for the application of which they would be duly responsible.<sup>24</sup>

Spring Rice also suggested the establishment of certain minimum qualifications to raise the estimation of the new boards in the public mind, and to change the term 'Heemraden' for some more suitable title. These details were left to D'Urban to settle in conjunction with his Legislative Council when they passed a law to bring into existence and to regulate this new branch of local administration.

Hunt has declared D'Urban's response to these instructions was immediate,<sup>25</sup> and based this conclusion on a rough note on the original despatch in the Cape Archives requesting the Attorney-General to report, and expressing the opinion that Spring Rice's measure appeared to require an ordinance. The outbreak of war delayed discussion of the ordinance in the Legislative Council for over a year, but the need for some form of municipal administration had obviously impressed D'Urban. While in Grahamstown he appointed five of its leading citizens to act as Wardmasters to superintend "the cleansing of the Town" and to perform "all such other duties as usually devolve on such officers."<sup>26</sup> In the war situation, with the town crowded with refugees and the local government functionaries heavily engaged in prosecuting the war, such a measure of local devolution was necessary. Four and a half months after he had

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<sup>23</sup>Ibid., p.92.

<sup>24</sup>Ibid., p.93.

<sup>25</sup>Hunt, 'The Development of Municipal Government in the Eastern Province...', p.143.

<sup>26</sup>C.L., G.T.J., 19 June, 1835, Government Advertisement appointing to the task W.R. Thompson, James Black, Robert Godlonton, Joshua D. Norten and William Wright.

returned from the frontier, D'Urban put before the Legislative Council the despatch of 4 July, 1834, and proposed "A General Bill for the creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded." After the first reading the bill was ordered published to allow it to be circulated through the Colony, and the date of its second reading set. After some delay, the bill passed this reading and was passed to a sub-committee of the Council in which three were to form a quorum.<sup>27</sup>

Three weeks later on 27 July, Bell, as chairman of the sub-committee, presented an amended bill. The Council ordered it to be printed and presented at its next sitting. At this sitting, on 30 July, 1836, the sub-committee's amendments were unanimously approved, and the amended bill was referred to the Judges, in their capacity as legal advisers, to test its validity. On 8 August the Council was informed that there was no legal impediment to its application by colonial tribunals. The bill was consequently read a third time, unanimously approved, and ordered to be presented to the Governor for his consideration. Eleven days after passing its third reading the ordinance was published in the Government Gazette of 19 August, 1836, and it became law on 1 October, 1836.

Unlike the Vagrancy Ordinance of September, 1834, the Municipal Government Ordinance evoked little unfavourable criticism. The Graham's Town Journal of 9 June, 1836, commented that in 1832 the town's residents had presented an unsuccessful memorial to be allowed to manage their own municipal affairs, and noted with penetrating insight that

in all matters of this grave importance, His Majesty's Government move with slow and solemn steps...After this never ought the community to despair, never to forgo the right of urging their wants upon the attention of the Government, and of pointing out the remedies which should be applied to existing evils.<sup>28</sup>

The following month the Journal declared that "the liberality of [the Ordinance's] provisions are extremely creditable to the existing government."<sup>29</sup> It continued:

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<sup>27</sup>C.A., Leg. Co., I, 6 July, 1836.

<sup>28</sup>C.L., G.T.J., 9 June, 1836. (Editor's emphasis.)

<sup>29</sup>C.L., G.T.J., 14 July, 1836.

We are all agreed that this town, at least, wants regulating; and the inhabitants have long ago expressed an opinion that it never will be efficiently governed, and its capabilities developed until they have the management in their own hands. <sup>30</sup>

The editorial also warned its readers to beware of municipal commissioners who, through improvidence or ambition, would abuse their powers.

The ordinance thus fulfilled a twofold function: it relieved the Colonial government of the onerous duties of town management and helped satisfy, albeit temporarily, the growing demand, especially from the English-speaking inhabitants, for a more active participation in their own affairs.

The Municipal Ordinance of 1836 was an enabling law. It empowered and required any Resident Magistrate, within the limits of his jurisdiction, and on the receipt of a written requisition from not less than twenty-five householders, who each paid taxes exceeding six shillings per annum, and who each lived within one mile of any one central place specified in the requisition, to call a meeting of such householders to determine whether their area should be designated a municipality and the necessary regulations adopted. The subsequent mechanics of the procedure laid down by the ordinance have already been examined in detail. <sup>32</sup>

The powers granted to municipal commissioners elected under the ordinance by the householders encompassed all aspects of local government. They were to supervise the protection of property within the municipality by employing and providing for watchmen and "serjeants of the night"; to provide for and maintain fire engines; erect and maintain street lighting; to provide and keep up public water supplies; construct bridges, drains, dams, and ditches; to build and maintain roads and streets; establish and regulate markets, and make provision for the care and regulation of municipal commonage. The fortieth article of the ordinance

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<sup>30</sup>Ibid.

<sup>31</sup>Ordinance 9/1836. "Ordinance for the creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded." Statute Law of the Cape of Good Hope, pp.388-406.

<sup>32</sup>Hunt, 'The Development of Municipal Government in the Eastern Province...', pp.144-5.

listed a multitude of "miscellaneous regulations" empowering the commissioners to enforce, among other things, all regulations framed relative to the assizing and examining of weights and measures; the time and place where cattle could be slaughtered and the condition of slaughter-houses; the registration, rates of charge and conduct of porters; the confining and killing of dogs; the registration and improper driving or loading of carts and carriages, and the prevention of public nuisances.

The expense of carrying the ordinance into effect was to be met "out of the money authorized to be received by the commissioners under the provisions of [the] ordinance."<sup>33</sup> The principal method of raising money was by levying rates on immovable property within the municipal limits. The method of assessing these rates was to be debated at a public meeting, and the twenty-eighth clause specifically allowed anyone who considered himself aggrieved in the matter of rates to appeal to the appropriate court for redress. The first municipal council was established at Beaufort West in 1837, and Somerset East, George, Grahamstown and Cradock followed before the end of D'Urban's governorship.

A study of the ordinances passed during the D'Urban era gives an idea of the range of affairs which passed under his review.<sup>34</sup> An ordinance dated 28 August, 1837, entitled "An Ordinance for the better observance of the Lord's Day in this Colony"<sup>35</sup> rubbed shoulders in the statute book with an ordinance dated 23 August, 1837, designated "An Ordinance for appointing Assistant Field-Cornets within the Colony."<sup>36</sup> The latter enactment empowered both the Governor and Lieutenant-Governor to appoint assistant Field Cornets to help the colonial service, for it was believed that "in certain field-cornetcies the duties of the field-cornets are very burthensome." This ordinance was in part a muted response to the depopulation in the Eastern Districts and the loss of minor yet strategically located government officials as many of the

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<sup>33</sup>Ordinance 9 of 1836, Clause 51.

<sup>34</sup>See Appendix 6.

<sup>35</sup>Statute Law of the Cape of Good Hope, p.415, Ordinance 4 of 1837.

<sup>36</sup>*Ibid.*, pp.415-6, Ordinance 5 of 1837.

Colony's Dutch-speaking inhabitants followed Uys, Potgieter, Maritz and Retief into the hinterland. Another ordinance dated 23 August, 1837,<sup>37</sup> took into consideration villages unable to become municipalities because of their small populations, and set down regulations for the establishment of markets in them.

One of the most contentious ordinances passed by the Governor-in-Council during this period was that of 29 August, 1836, "to indemnify the Governor of the Colony and all persons acting under his authority against certain acts done during the existence of Martial Law in certain parts of the Colony."<sup>38</sup>

Glenelg's despatch, dated 25 November, 1836,<sup>39</sup> concurred with the propriety of an indemnity ordinance for the protection of all those who, in obeying their instructions, had carried martial law into operation. But he declared himself dissatisfied with the fitness of including the Governor, for "such an enactment appears necessarily to imply that His Majesty's Representative is amenable to the Civil and Military Tribunals of the Colony."<sup>40</sup> Glenelg pointed out that in his official capacity D'Urban was only responsible to the King, Parliament and, in certain cases the Court of King's Bench in Westminster, but not to the colonial tribunals. Glenelg also objected to a certain looseness in the drafting of the indemnity which he considered would legally cover "many Acts of wanton and unnecessary rigour, or even injustice or cruelty [which] may possibly have been done bona fide in furtherance [of the objects for which martial law was proclaimed]."<sup>41</sup> The ordinance was to continue in operation until the Crown's further pleasure was known, but D'Urban was to propose to the Legislative Council certain amendments to meet the Secretary of State's objections.

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<sup>37</sup>Ibid., pp.416-7, Ordinance 6 of 1837.

<sup>38</sup>Ibid., pp.406-8, Ordinance 10 of 1836.

<sup>39</sup>C.A., A519, Vol. 5, pp.213-6, Glenelg to D'Urban, 25 November, 1836, received at Cape Town on 20 February, 1837.

<sup>40</sup>Ibid., p.214.

<sup>41</sup>Ibid., p.215.

D'Urban only answered Glenelg in a despatch dated 11 December, 1837,<sup>42</sup> in which he informed the Secretary of the ordinance's suspension pending further instructions which he hoped would be based upon the enclosed written recommendation of the Judges of the Cape's Supreme Court. D'Urban pointed out that the spirit of Glenelg's despatch of 25 November, 1836, seemed to indicate that the Governor should be protected, and that by directing the ordinance's amendment, Glenelg obviously believed that such protection was legally unnecessary. However, the Judges, with their knowledge of local Dutch law, were otherwise convinced, and agreed the Governor's exclusion from the ordinance would leave him exposed to litigation.

It was the Judges' opinion that as the Crown's representative, the Governor, in that capacity, was only responsible to the Queen,<sup>43</sup> Parliament, and, in some cases, to the Court of Queen's Bench. But they were also of opinion that by the law of the Colony, secured to the colonists by the Articles of Capitulation of 1806, and later by the Treaty of August, 1814, with the Kingdom of the Netherlands,<sup>44</sup> the Governor, particularly after he had ceased to hold that office, was liable, in the same manner as any British subject, to be sued ad civilem effectum in the courts

in respect of any cause of action, arising even during the time he held the office of Governor, not being an act done, or caused to be done, by him in his capacity as Governor and in the discharge or exercise of any power, authority or discretion, lawfully vested in, or granted, committed, or entrusted to him by his Commission of Instructions, provided always that during the time he holds the office of Governor no execution can be issued against his person, nor any order made for attaching his person.<sup>45</sup>

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<sup>42</sup>C.A., A519, Vol. 14, pp.60-2, D'Urban to Glenelg, 11 December, 1837.

<sup>43</sup>In the period between Glenelg's despatch of 25 November, 1836, and the formulation of the Judges' Memorandum of 9 December, 1837, William IV had died (on 20 June, 1837) and had been succeeded by his niece, the Princess Alexandrina Victoria. C.L., G.T.J., 28 September, 1837.

<sup>44</sup>R.C.C., Vol. X, pp.170-6.

<sup>45</sup>C.A., A519, Vol. 14, pp.63-5, Memorandum of Wylde, Menzies and Kekewich, 9 December, 1837, enclosed in D'Urban to Glenelg, 11 December, 1837.

The Memorandum continued that it was the belief of the Judges that acts committed, or caused to be done by D'Urban during the period of martial law and in furtherance of the public service, could legally be held to have been done neither in his capacity as Governor, nor in the discharge of his authority. These acts therefore laid him open to the possibility of being sued ad civilem effectum in the colonial courts "by individuals affected by such acts, but from and against which suits it may be expedient and just that he should be indemnified, freed and discharged."<sup>46</sup>

It seems that the Crown accepted this recommendation for the ordinance was neither amended nor officially disallowed. It appeared in the 1862 edition of the State Law of the Cape of Good Hope, which took care to omit all ordinances which the Crown had disallowed, such as the Vagrancy Ordinance of 8 September, 1834. This volume also noted that the ordinance for "Altering and amending the Laws and Regulations relating to Medical Practitioners, Apothecaries, Chemists and Druggists in this Colony"<sup>47</sup> of 15 December, 1836, had ceased to have legal effect because it had not been confirmed by the British government within three years of its enactment. There is therefore little reason to doubt its accuracy.

Other facets of D'Urban's administration were marked by an acceptable degree of advancement. In 1822, as a direct policy to teach English at the Cape, a number of free schools had been established at government expense.<sup>48</sup> But education as a facet of the Colonial government's activities was a field of endeavour where success was limited not only by the lack of funds and qualified teachers at the government's disposal, but also by the vast distances encompassed by the Colony. In the Cape of Good Hope Blue Book of 1834, the general remarks under education noted how the great distances of the Colony prevented many children from attending the government schools, even when their parents could spare them from household and agricultural duties. Many families were too penurious to even consider private tutors. The writer concluded: "It is therefore (with the exception of Cape Town,

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<sup>46</sup>Ibid., p.65.

<sup>47</sup>Statute Law of the Cape of Good Hope, p.408, Ordinance 12 of 1836.

<sup>48</sup>Theal, Vol. I, p.371.

Grahamstown, and the Missionary Institutions) in the several Towns and Villages only and at the expense and under the supervision of Government that schools can be kept up..."<sup>49</sup>

Nevertheless, as the accompanying table<sup>50</sup> shows, the number of children at schools in the period 1834-7 grew from 1,627 to 2,237, an increase of 610, while the Government grant for education dropped by £131.5. In the same period voluntary contributions increased by £172.15.6, and the number of private schools multiplied by 33.<sup>51</sup> During D'Urban's governorship there thus seems to have been an upsurge of public interest in education. This interest was also reflected in the "Ordinance for establishing, regulating and providing for the South African College",<sup>52</sup> dated 21 December, 1837. Although this ordinance was restricted in its application, it also underlined the willingness of the Colonial government to allow an appreciable measure of public control of education.

In Cape Town in 1828, a private meeting of interested parties called to consider the provision of a better standard of education than that offered in government free schools led to the floating of an initial capital of £2,500 for the establishment of a college. Shareholders were entitled to have their sons educated at the college at a lower fee than other pupils. The interest on this capital, and the

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<sup>49</sup>C.G.H.B.B., 1834, p.151.

<sup>50</sup>

Year	No. of Scholars	Government Support	Voluntary Contributions	Expenses of each School	No. of Private Schools
1834	1,627	£1,730	£7	£274	53
1835	1,624	£1,660	£7	£322. 1	34
1836	1,559	£1,465	£52	£341.10	36
1837	2,237	£1,598.15	£179.15.6	£420.14	86

Extracted from C.G.H.B.Bs.: 1834, pp.148-151; 1835, pp.138-42; 1836, pp.138-42; 1837, pp.145-50.

<sup>51</sup>The term 'private school' seems to have been used loosely in the statistical records to describe the tutoring of any number of children from one upwards by individuals specifically hired by the children's parents. Hence the possible reason for the fluctuating annual numbers of 'Private Schools' listed in the Blue Books.

<sup>52</sup>Statute Law of the Cape of Good Hope, pp.419-35, Ordinance 11 of 1837.

tuition fees would be used to pay the teaching staff. A meeting of shareholders on 4 June, 1829 led to the election of fifteen of their number as a board of directors, and the opening of the South African College in October, 1829. In March, 1834, the Colonial government granted an annual subsidy of £200 in return for the right to appoint two of the college's directors.

The ordinance of 21 December, 1837, constituted the college on a legal foundation with the intention - at the shareholders' request - of making a more efficient provision for the institution. This enactment allowed the stockholders co-partnery in the college, and established that the college council should consist of seventeen members, fifteen of whom were to be elected by the shareholders, and two to be appointed by the government. Five directors were to form a quorum. The original directors were to remain in office until mid-January, 1838, when, at a meeting of shareholders, ten directors would vacate their offices, and ten new men would be appointed in their place, while five retained their seats. Thereafter, and in January of every year, ten seats in rotation would become vacant and filled at a meeting of shareholders.

The teaching staff were to be appointed by the now legally constituted council of directors. A senate for the regulation of instruction and discipline was to be composed of two directors elected annually by the council, and of "the respective professors of the college for the time being."<sup>53</sup> The age of admission for scholars was set at ten years, and it was stipulated that the admission fee was not to exceed one pound a year, "exclusive of the fees payable to the professor or professors in respect of the classes for which [the pupil] may enter himself, to be applied in the purchase of books, stationery and other articles as may be required for the institution..."<sup>54</sup> The Governor was allowed to enter into the college five free students when the number of paying students was under fifty, and ten when the paying students exceeded fifty. The ordinance also required a register of shareholders to be kept, directed the issue of certificates of partnership, and ruled that they could only be transferred with the approval of the council of directors.

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<sup>53</sup>Ibid., Clause 35.

<sup>54</sup>Ibid., Clause 44.

Another ordinance of importance in South African social history was that of 25 July, 1836, "for providing for the better and more effectual Management of the Public Library in Cape Town."<sup>55</sup>

The South African Public Library had been established in 1818 on the initiative of Lord Charles Somerset, and had opened to the public in January, 1822. Its early years were characterised by hardship, as financial exigency forced the Colonial Treasury to withdraw its support. An annual subscription was proposed, and at a public meeting in March, 1829, resolutions were adopted in favour of the management being vested in an elective committee.<sup>56</sup> These were embodied in Cole's Ordinance 71 dated 3 February, 1830, which substituted a committee of nine persons elected annually by the subscribers, in place of the original board of nine trustees appointed by the Governor. D'Urban's repealed Cole's of 1830 with the intention of making "better and more effectual provision for the management of the library."<sup>57</sup> The existing committee of the library was to remain in office until a new committee was elected at an annual general meeting in April, 1837, under provision of the new ordinance. The enactment made arrangement for the filling of vacancies on the committee and outlined its obligations, detailed the appointment of a librarian, the rights of access to, and use of, the library, and carefully delineated the procedures for the depositing in the bank of library funds to guard against embezzlement.

In effect the major function of this ordinance was to put the regulation of library matters on a firm footing, but it exhibited a number of common features with the Municipal Government and South African College ordinances. In each case the Colonial government initiated legislation on some aspect of local administration, thereby testifying to its pre-eminence. But in each case there was also a groundswell in public opinion which supported such legislation. Again in each, on the basis of some acceptable criterion - the payment of a certain minimum tax, as in the Municipal Ordinance, the possession of shares in the

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<sup>55</sup>Statute Law of the Cape of Good Hope, pp.379-388, Ordinance 8 of 1836.

<sup>56</sup>Theal, Vol. I, pp.378-9.

<sup>57</sup>Statute Law of the Cape of Good Hope, p.379, preamble to Ordinance 8 of 1836.

case of the South African College, or subscribers in the case of the library - it allowed Cape residents to elect boards or councils of their choice, and then permitted those elected bodies a significant amount of freedom in managing their particular affairs. The indications are that a policy of limited devolution was being pursued, and this would certainly be in keeping with the attitude of the British government which had instructed D'Urban to introduce the Cape's first Legislative Council in his Instructions of 8 November, 1833. In turn, the Crown's policy of granting constitutional changes in the Cape was part of a wider programme of constitutional development in Crown colonies.<sup>58</sup>

An aspect of D'Urban's governorship which is rarely considered is the fact that it was during his period of office that a committee of the Legislative Council, under the chairmanship of J.B. Ebdon, was established to consider ways and means of reforming and improving the system of taxation at the Cape in all its aspects. A report submitted to D'Urban by the committee on 20 November, 1837, declared its object "to ascertain the respective productiveness of every branch of [the] revenue, and thus to be enabled by comparison to fix on those which might appear to be the least productive to the Community."<sup>59</sup>

The committee showed that while revenue from the quitrents on land, taxes on the transfer of landed property, customs duties and post office fees were increasing with the expansion in population and commerce, those directly affecting the "person...stock and produce of the colony" had decreased, were unequal in application and attended with much expense and difficulty in their collection. These taxes were very often evaded and added appreciably to the causes of discontent felt by a large portion of the agricultural population.

The committee thus advised the abolition of the capitation tax,<sup>60</sup> the tax upon servants,<sup>61</sup> and the taxes upon horses and carriages,<sup>62</sup>

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<sup>58</sup>See pp.

<sup>59</sup>C.A., L.C.A., 8, p.1, Report of 20 November, 1837. (Committee's emphasis.)

<sup>60</sup>Abolished January, 1840, except for those outstanding amounts in arrears. Theal, Vol. II, p.202.

<sup>61</sup>Abolished in February, 1839, except for amounts in arrears. Theal, Vol. II, p.202.

<sup>62</sup>Abolished in February, 1839, except for amounts in arrears. Theal, Vol. II, p.202.

stock and produce<sup>63</sup> and grain.<sup>64</sup> The committee further established that the annual revenue from these sources realised £15,321 for the government, and expressed the opinion that this amount could be raised largely from a more rational imposition of customs duties.

To this end the committee proposed a specific duty on certain staple imports to replace the usual "capricious" rating of goods, with regard to their real market value, by His Majesty's Customs. It was believed that such a policy would not only end the unequal system of rates, but would also encourage the importation of "the best articles". The committee produced tables<sup>65</sup> to show that had their proposed scale of duties been applied in 1835 an increase of £15,105 would have accrued to the Colonial government, and £23,235 in 1836. To obviate any financial loss to the service due to the fact that the increase in imports during these two years might have been due to "the mercantile operations incident to the influx of specie for compensation to the Slave Owners under the Emancipation Act", the committee also proposed to raise the duties on all imports:

five per cent ad valorem on goods, wares, and merchandize not otherwise charged with duty, and not therein declared to be free of duty, being the growth produce or manufacture of the United Kingdom or any of Her Majesty's Possessions abroad, other than the possessions of the East India Company,

and

twelve per cent ad valorem on goods, wares, and merchandize not otherwise charged with duty, and not therein declared to be free of duty, being the growth, produce or manufacture of any foreign state or of the possessions of the East India Company.<sup>66</sup>

These duties would be in lieu of those then levied by an Order-in-Council, dated 22 February, 1832.

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<sup>63</sup>Abolished at the end of 1838. Theal, Vol. II, pp.202-3.

<sup>64</sup>Abolished July, 1842. Theal, Vol. II, p.203.

<sup>65</sup>C.A., L.C.A., 8, Leg. Co. Appendix, 'Table exhibiting the Principal Branches of the Public Revenue under the different heads of Taxation, as levied by Government during the years 1832-6'. Dated 30 November, 1837.

<sup>66</sup>C.A., L.C.A., 8, Leg. Co. Appendix, pp.4-5, Report of 20 November, 1837.

The committee's recommendations were in due course placed before the Secretary of State, received a favourable hearing, and formed the subject matter of two further Orders-in-Council. One, dated 10 August, 1840, placed special duties on various articles, and the second, dated 11 March, 1842, implemented the recommendations of Ebdon's committee by raising the duties on all articles not specially rated to five per cent of their value if imported from British possessions, and to twelve per cent of the value if brought from foreign countries.<sup>67</sup>

In their Report of 20 November, 1837, the committee stated their objection to raising the duty on French brandy, pointing out that it was used in the manufacture of Cape wine, an important export staple. In conclusion, the committee drew the Governor's attention to the potential revenue available from the more efficient sale of Crown land. They therefore suggested the appointment of a board of commissioners to be charged with the task of receiving all applications for land, and recommended that in future no grant should be made without a survey first being conducted, the title deeds completed, and the land auctioned to the highest bidder. The committee believed that the "exigencies of the government" would not only be met fully by these measures, "but that a considerable surplus revenue [would] arise bearing upon the Commercial and Agricultural demands of the Colony, to the relief of the Community at large from all those direct Taxes at present so generally complained of."<sup>68</sup> While the committee was correct in its assumption that the reform of the tax system along the lines suggested would be of great benefit to the Colony, it understandably failed to foresee a series of expensive frontier wars which were a drain not only on the British Treasury, but also the Colonial Chest. Over and above the normal cost of imperial defence at the Cape, the war of 1834-5 cost £500,000, that of 1846-7 almost £2 million, and the war of 1850-3 about £3 million.<sup>69</sup>

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<sup>67</sup>Theal, Vol. II, p.205.

<sup>68</sup>C.A., L.C.A., 8, Leg. Co. Appendix, Report of 20 November, 1837.

<sup>69</sup>Galbraith, Reluctant Empire, p.63.

Although D'Urban had been instructed<sup>70</sup> by the Colonial Office to investigate the Cape's chaotic land system,<sup>71</sup> the Governor's attention had been fixed on larger and more immediate problems. But there is certainly evidence that D'Urban did try and sort out the problem of arrears of title deeds in the northern and north-eastern districts. In a note<sup>72</sup> in the Cape Archives dated 5 January, 1839, D'Urban related how in 1835, while on the frontier, and with particular reference to the districts of Graaff-Reinet, Somerset, Cradock and Colesberg, he had discovered that a great source of grievance among the farmers was that many of them had not received the title deeds for their estates, despite the fact that the requisite surveys had been paid for and completed.

Upon investigation in Cape Town, D'Urban discovered that the Surveyor-General's office was in possession of many of these incomplete grants but, burdened with the additional task of Civil Engineer to the government, its resources were inadequate to meet all the services demanded of it. The Cape of Good Hope Blue Book for 1836 recorded:

In consequence of the great arrear in the preparation of the grants of land, arising partially from the almost incessant employment of the Surveyor-General as Civil Engineer, an Assistant Engineer has been appointed with an allowance of £250 per annum, as also an Extra Clerk at £75, by which arrangement it is estimated that an additional income of nearly £3,000 per annum will be derived from the rent of the lands to be granted. These allowances are paid as unfixed contingencies...<sup>73</sup>

The arrangement was approved and continued until the Assistant Civil Engineer was brought onto the Fixed Establishment of the Colonial

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<sup>70</sup>C.A., G.H. 1/96, Instructions, 8 November, 1833.

<sup>71</sup>The whole question of early British land policy at the Cape and the reasons for its chaotic situation in the 1830s has been capably investigated by L.C. Duly in his study entitled British Land Policy at the Cape, 1795-1844. T.R.H. Davenport and K.S. Hunt have succinctly surveyed the methods of land alienation under the Dutch and British administrations, and provided a useful list of the various definitions in The Right to the Land.

<sup>72</sup>C.A., A519, Vol. 28, pp.92-4, D'Urban's note of 5 January, 1839.

<sup>73</sup>C.G.H.B.B., 1836, p.85, Civil Establishment.

government under the authority of the Secretary of State's despatch of 18 January, 1844.<sup>74</sup>

As a result of this arrangement, the Surveyor-General and his assistant "were left free of distraction for the legitimate object of their Department - that of surveying the Crown Property and preparing grants of land."<sup>75</sup> Accordingly, D'Urban instructed one of these officers to re-survey such estates in the districts of Graaff-Reinet, Somerset, Cradock and Colesberg, as had been incorrectly surveyed, and to process the grants as rapidly as possible. As a result, D'Urban claimed 318 land grants signed and issued in 1836, covering an area of 1,922,721 acres, and 482 grants, covering 4,731,200 acres, issued in 1837.<sup>76</sup>

In part this land measure was designed to assuage the grievances of potential emigrants, in which it largely failed, as well as to boost the revenue of the Colony. The Cape of Good Hope Blue Book for 1838 showed that land revenue brought in £1,990.4.4½ in that year as compared to £1,146.18.4¾ in 1836,<sup>77</sup> so it seems that D'Urban partially achieved his second object.

The value of land was ascertained largely from the market value of the products which could be derived from it. Although property values undoubtedly slumped during the period of the Great Trek with farms being sold for less than the value of the buildings upon them or exchanged for the necessities of the trek like ammunition, wagons and food, the impact on land values was not long lived, as the marginal yet future significant increase in land revenue between the years 1836-8 indicated. Increasingly, the production of wool in the Eastern Districts led to a rapid increase in land prices.

In the Graaff-Reinet area, for example, K.W. Smith's recent research has shown that land bought cheaply from trekkers was rapidly

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<sup>74</sup>C.G.H.B.B., 1844, p.114, Civil Establishment.

<sup>75</sup>C.A., A519, Vol. 28, pp.92-4, D'Urban's note of 5 January, 1839.

<sup>76</sup>Ibid.

<sup>77</sup>C.G.H.B.B., 1836, p.39, Statement of Revenue; C.G.H.B.B., 1838, p.44, Statement of Revenue.

made productive in wool, and soon established the area as a major producer of this commodity. As a result land prices rose. "In 1857 a survey of 49 farms in the Graaff-Reinet division, drawn from all field cornetcies, showed a value of £192,250; the valuation for these same properties in 1843 had been £30,071."<sup>78</sup>

D'Urban correctly declared in his note of 5 January, 1839, that the chaotic land situation, particularly in the Eastern Districts of the colony, was not of the making of his administration. Duly has pointed out that in the period 1832-8 the Colonial Office showed little wish to intervene in the Cape's land administration.<sup>79</sup> However, Glenelg was impressed by the Legislative Council's recommendations contained in their report of 20 November, 1837, particularly with the prospect of obtaining more revenue for the Colonial government, and he concurred in the "expediency of adopting regulations for the future disposal of crown land by sale to the highest bidder..."<sup>80</sup> Although the report of Ebdon's committee had not specified it, Glenelg assumed that land thus sold should be granted in freehold tenure, and concluded that perpetual quitrent<sup>81</sup> should be converted into freehold as well. This conversion alone would have absorbed the time and energy of the Surveyor-General's office. With regard to Glenelg's instructions to sell land by public auction, the order was only given upon application<sup>82</sup> during Napier's governorship. As with many problems inherited by D'Urban, that of land outlived his governorship, and its rationalisation lay in the future.

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<sup>78</sup>K.W. Smith, From Frontier to Midlands: A History of the Graaff-Reinet District, 1786-1910, pp.100-3; 115-9.

<sup>79</sup>Duly, British Land Policy at the Cape, p.153.

<sup>80</sup>Glenelg to Napier, 3 October, 1838, quoted in Duly, *op.cit.*, p.155.

<sup>81</sup>Quitrent tenure was introduced in 1732 and allowed the holder to a renewable period of fifteen years of occupation of the land, and imposed a tax payable to the government. Cradock extended this system in 1813 to the perpetual quitrent tenure, and, depending on the quality of the land, an annual rent of up to 250 rixdollars. See Davenport and Hunt, Right to the Land, p.V and Duly, British Land Policy at the Cape, pp.48-9. Freehold tenure allowed ownership under individual title of land, and any structures upon it, and under the British administration, the tenure was not hedged with conditions.

<sup>82</sup>Duly, *op.cit.*, p.155.

Another thorny problem with which many Cape Governors attempted to come to terms was the sale of gunpowder. After the second occupation of the Cape in January, 1806, the Colonial government continued the Dutch monopoly on the sale of gunpowder, both as a way of deriving a constant source of revenue on this essential product, and to prevent its sale to the trans-frontier tribes. It would seem that as a result of this monopoly, a certain amount of corruption in government circles developed as well as a profitable smuggling trade in the commodity. The Zuid-Afrikaan of 2 May, 1834, declared indignantly that the deputy secretary to the government had annually received £1,000 from the administration of the government monopoly "in addition to a very large fixed salary."<sup>83</sup> However, the Order-in-Council, dated February, 1832, which regulated the trade of the Cape, allowed the importation and sale of gunpowder from Britain by merchants who possessed written authority, and the Colonial government's position was soon undercut.

The acting Governor, Wade, concerned with the high incidence of raids across the northern frontier by Bastards and Korannas armed with European firearms, passed an ordinance in November, 1833, "for regulating the Trade in Gunpowder within this Colony."<sup>84</sup> A correspondent to The Graham's Town Journal of 5 September, 1833, had noted with masterly understatement that the traders in firearms and gunpowder to the tribes "must be bad characters to connive at or to encourage such proceedings." The Journal of the following month declared it appeared that not only traders engaged in this illicit trade, but also some farmers as well. "Thus a few unprincipled characters to advance their own interest, do not hesitate to adopt a line of conduct which entails upon their more honest neighbours consequences of the most harassing and ruinous tendency."<sup>85</sup>

Wade adverted to these circumstances in his despatch<sup>86</sup> of 10 December, 1833 to Stanley, and in another despatch the following month,

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<sup>83</sup>S.A.P.L., Z.A., 2 May, 1834.

<sup>84</sup>Ordinance 101 of 1833, published in G.T.J., 28 November, 1833.

<sup>85</sup>C.L., G.T.J., 17 October, 1833.

<sup>86</sup>P.P., 1835, XXXIX, (252), pp.66-7, Wade to Stanley, 10 December, 1833.

he declared that the "wholesome regulations of the old law, as to the quantity that might be...sold or bartered to, or procured by any one individual [had fallen] into complete disuse, and were completely disregarded."<sup>87</sup> Wade also believed that by far the greater portion of the powder was imported at Port Elizabeth,

from whence it is conveyed to Grahamstown, Somerset, Cradock and Graaff-Reinet...and there is not the slightest doubt entertained that from these places it finds its way across the frontier, where it is profusely supplied by sale or barter to the Bastards and Corannas and other native tribes...<sup>88</sup>

Wade was ill-informed in his estimation that the Xhosa on the eastern frontier "had not yet acquired the use of fire-arms" as the war of 1834-5 was to prove. His comments in this regard were an interesting reflection of official thinking. It seems the Colonial government considered the Xhosa, armed with assegais, as a secondary threat to the Colony in comparison to the raiders of the north. Xhosa inroads were vexatious to the farmers, resulted in stock losses, but were rarely accompanied "with bloodshed, or anything of a cruel or barbarous character...The Caffres are as yet uncivilized, but they cannot with truth be called a nation of savages."<sup>89</sup> Wade considered the banditti on the northern frontier as "the true savages". If this was an indication of official thinking, then it would go far to underline the Colonial government's lack of understanding of the pressures developing in the trans-Keiskamma territories and also, in part, D'Urban's delay in formulating a frontier policy in the east. There were seventeen months separating Wade's despatch of 14 January, 1834, and D'Urban's proclamation of 10 May, 1835, in which he referred to the Xhosa as "irreclaimable savages".

To curb the sale of gunpowder across the frontier, Wade accordingly proposed Ordinance 101, a measure he described as "differing in almost every respect from the practice hitherto pursued by the Colonial

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<sup>87</sup>Ibid., pp.75-8, Wade to Stanley, 14 January, 1834.

<sup>88</sup>Ibid., pp.76-7.

<sup>89</sup>Ibid., pp.77-8.

government in regard to the trade of this dangerous commodity."<sup>90</sup> The Zuid-Afrikaan of 2 May, 1834, described it in different terms:

By the Ordinance Number 101 the former restrictions on the sale and purchase of gunpowder were nominally removed, but a series of transgressions are created, for which no less than SEVENTEEN different penalties are enacted, and each of these of no trifling amount, and embracing such a range of fines as to render their application an engine of the most wanton arbitrary power.<sup>91</sup>

The British government refused to sanction Wade's ordinance on the grounds that the increased cost of a licence to sell gunpowder and the increased scale of duties would encourage smuggling. Wade's ordinance required an annual payment of £10 for a licence, and imposed a duty of six pence per pound, besides the ad valorem duty of three per cent.<sup>92</sup> Moreover, Wade had aroused the opposition of the commercial interest at the Cape. In a petition to the Colonial Office dated 21 February, 1834, the Cape of Good Hope Trade Society not only deplored the regulations as "troublesome and vexatious", but pointed out that the lengthy coast line possessed by the Colony and the inability of the Colonial government to prevent smuggling, would lead to an easy evasion of the ordinance's provisions. Thus the only security on which the Colonial government could "rely for the due collection of the import dues arises from their moderation."<sup>93</sup> The Secretary of State in a despatch to D'Urban dated 4 July, 1834, declared himself aware that in "the present state and disposition of the native tribes which inhabit the countries bordering on the colony", the old prohibitive laws needed overhauling and that it was necessary to attempt to restrain the sale of gunpowder. He continued:

This is a question indeed which is so intimately connected with the best interests of the colony, that

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<sup>90</sup>Ibid.

<sup>91</sup>S.A.P.L., Z.A., 2 May, 1834.

<sup>92</sup>P.P., 1835, XXXIX, (252), pp.78-83, Enclosure No. 1, in Wade to Stanley, 14 January, 1834.

<sup>93</sup>P.P., 1835, XXXIX, (252), pp.87-8, Chairman of the Cape of Good Hope Trade Society to R.W. Hay, 21 February, 1834, enclosed in Spring Rice to D'Urban, 4 July, 1834.

if it were practicable to devise any regulations by which the native tribes could be effectually precluded from obtaining the means of keeping up their system of plunder and aggression, there is no restriction, however severe, to which, for that purpose, I should not be prepared to lend my sanction.<sup>94</sup>

D'Urban was accordingly instructed to amend Wade's impracticable ordinance by proposing to the Legislative Council "another scale of duties which shall be better calculated to secure the objects of the law by holding out encouragement and protection to the fair trader."<sup>95</sup>

D'Urban and the Legislative Council therefore passed Ordinance 7 of 1834<sup>96</sup> which established that licences were to cost £3 with a duty of three pence for every pound of gunpowder landed. Private magazines were permitted to be erected, subject to government approval. Although Clause 10 empowered the Governor "at all times when he shall see fit... to prohibit the issue of gunpowder from all or any of the said magazines", it was clear that the Colonial government had neither the resources nor the manpower to prevent the illegal running of guns and gunpowder across the frontier. The problem was to be perennial to the frontier, especially in times of unrest.

Before the Aborigines Committee on 11 March, 1836, Beresford had declared that during the war just ended, the Xhosa had used muskets made in Birmingham, similar to those used by the British troops, and had probably obtained them from British traders. He accused the traders, he explained, because it was well known that muskets were a prohibited form of barter, and would fetch a higher price in the trans-Keiskamma territory than any other sort of article. Beresford also declared that despite much trouble, the Colonial government had been unable to trace the source of supply.<sup>97</sup>

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<sup>94</sup>Ibid., p.87, Spring Rice to D'Urban, 4 July, 1834.

<sup>95</sup>Ibid.

<sup>96</sup>Statute Law of the Cape of Good Hope, pp.352-64, passed 3 December, 1834, and sanctioned by H.M.G. on 26 March, 1836.

<sup>97</sup>P.P., 1836, VII, (538), p.256, Q2491-2499, Capt. de la Poer Beresford before the Committee, 11 March, 1836.

And again the deposition of one Ganya, great counsellor to the late Ngqika, before Colonel Smith in King Williamstown on 23 January, 1836, stated: "The Caffres got muskets from the shops in the Kat River, giving bullocks for them, sometimes one, sometimes two."<sup>98</sup>

Ganya was supported in this by one Klaas Platje, who deposed on 6 March, 1835, that Andries Stoffel, the Khoikhoi who accompanied Philip to England to give evidence before the Aborigines Committee,

used to sell muskets at a house of Mr Read's [in the Kat River Settlement] almost joining the house he lives in. The Caffres who lived beyond Belfore [sic] ...used to bring cattle to change for guns [and] get, in change, one gun for an ox...All the people, or the people generally, knew of Andries Stoffel selling guns to the Gonahs for the Caffres, and that it was generally said you can buy guns of Andries Stoffel at Mr Read's.<sup>99</sup>

Gun running was a profitable business but by its very nature it was difficult to detect or prove, and provided easy reason to cast suspicion and aspersions. The practice is even more difficult for the historian to trace in contemporary documents and remains in the shadows of history, difficult to detect, yet an omnipresent element in the equation of frontier stability. Maitland during the war of 1846-7, for example, was forced to proclaim prominently on the front page of the Graham's Town Journal of 2 May, 1846: "the power of the...hostile tribes is derived in a great measure from their possession of Fire-Arms, Ammunition and such Implements of War as they have obtained from certain of the Inhabitants and Traders of the Colony." Such "evil-disposed and treacherous persons" who intended providing these tribes with additional war supplies were ordered to desist, and it was pointed out that under the terms of Martial Law, imposed throughout the Colony on 22 April, 1846, such conduct was "liable to a summary infliction of capital or other punishment if taken in the commission of the said offences on the field or the line of march..."<sup>100</sup>

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<sup>98</sup>P.P., 1837, XLIII, (503), pp.74-5, Deposition of Ganya, Enclosure 3 in D'Urban to Glenelg, 9 June, 1836.

<sup>99</sup>Ibid., pp.88-9, 'Statement of Klaas Platje, a Hottentot', Enclosure 3 in D'Urban to Glenelg, 9 June, 1836.

<sup>100</sup>C.L., G.T.J., 2 May, 1846.

If gun and powder running proved a profitable commercial venture, more legitimate commercial pursuits increased during D'Urban's governorship, despite the destruction on the frontier as a result of the war which Webb<sup>101</sup> has argued to be as incomplete as other sources<sup>102</sup> believed. The growth of the Colony's commerce revealed itself in the development of the two ports at Cape Town and Port Elizabeth, and the increase in commercial business was reflected in the number of private banks and joint stock companies which were established. The Cape of Good Hope Bank was established in 1837, and was rapidly followed in 1838 with the establishment of the South African Bank, and in the following year by the Eastern Province Bank in Grahamstown.<sup>103</sup> The rapid and successive establishment of these banks in part indicated the presence of a progressive economic spirit which the services offered by the old government Lombard and Discount Banks could no longer adequately handle. Corn, oil, aloes, fruit, and particularly wine and wool, formed the backbone of the Cape's staple exports. The Colony's agricultural potential remained relatively untapped, and Martin's History of the Colonies of the British Empire noted with interest: "The Dutch boors [sic] are so heedless of manure that they allow it to accumulate until it reaches a mountainous height, when they set fire to the mass (which would be so valuable in England) have been known to continue burning for seven years."<sup>104</sup> As regards Cape wines, Martin complained of their former

raciness which much injured their sale in European markets; this was most probably owing to the avidity of the wine farmers who attended more to quantity than to quality; whenever the latter has been attended to, the wine produced at the Cape has been equal to that prepared in any part of the world.<sup>105</sup>

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<sup>101</sup>A.C.M. Webb, 'The Immediate Consequences of the Sixth Frontier War on the Farming Community of Albany', S.A.H.J., No. 10, November, 1978.

<sup>102</sup>See, for example, Cory, Vol. III, pp.54; 72.

<sup>103</sup>Arndt, Banking and Currency Development in South Africa, pp.235-9.

<sup>104</sup>Robert Montgomery Martin, History of the Colonies of the British Empire, p.493.

<sup>105</sup>Ibid., p.494. Not all authors shared Martin's opinion that Cape farmers neglected the quality of their wines in their pursuit of quantity and profit. For example, C. Louis Leipoldt in his 300 Years

Martin also correctly predicted that wool would "be one of the greatest and more profitable staples of the colony",<sup>106</sup> and noted how the Albany settlers were improving the blood line of their sheep by importing Saxon and Merino lambs from New South Wales.

In 1834 the Cape's imports were worth £462,768.14.3, and its exports £109,670 of which wine accounted for £93,436 and wool £6,527.<sup>107</sup> Three years later, in 1837, the Cape's exports of staple articles amounted to £241,265.10 of which wine accounted for £112,166 and wool £15,954.<sup>108</sup> Although the revenue earned by wine had increased significantly, that earned by wool had more than doubled. This trend continued as the imperial preferential duty which had admitted foreign wines into Britain at a duty four times that imposed upon Cape wines was gradually eliminated after 1825.<sup>109</sup> The adulteration of Cape wines had not created any great demand for them, and the fall of the preferential duty was matched by a fall in the profit gained in importing such wine.<sup>110</sup> The Cape still retained its bad balance between imports and exports and the total imports for 1837 amounted to £891,162 compared with a total export figure of £384,383.<sup>111</sup>

Thus during D'Urban's governorship the inherently weak financial structure of the Cape and the imbalance of imports over exports remained a factor in the Colony's administration, although D'Urban in a despatch

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of Cape Wine declared the adulteration of Cape wines was committed in England, and that the Cape Town exporting firms "blended their wines with great care, purchased the best that could be had in the country, and sent out consignments that were identical with the samples." Leipoldt was also of the opinion that during the peak years of the mid-1820s, "the Cape government, to a large extent, guaranteed the quality of the wine exports." (p.94) Nevertheless, Cape wine was not highly valued in England.

<sup>106</sup>Martin, op.cit., p.494.

<sup>107</sup>C.G.H.B.B., 1834, pp.201; 219, Exports.

<sup>108</sup>C.G.H.B.B., 1837, p.166, Customs.

<sup>109</sup>Leipoldt, 300 Years of Cape Wine, p.93.

<sup>110</sup>C.H.B.E., Vol. VIII, p.768.

<sup>111</sup>Martin, op.cit., p.490.

dated 1 January, 1838, informed the Secretary of State that the gross revenue of the Colony in 1837 exceeded its gross expenditure by £11,118.<sup>112</sup> This increase in revenue was probably more due to the Colonial government's programme of retrenchment than to any real improvement in its utilization of the sources of revenue or its improved commercial base. But as the preceding paragraphs have indicated, attempts were under way to improve both. Where possible, the Colonial government did attempt to encourage the Colony's commerce, in any way short of actual financial inducement and involvement. On 27 June, 1836 for example, an ordinance "for explaining and extending the Powers of the Trustees appointed for the Management of a Mercantile Establishment at Port Beaufort"<sup>113</sup> was passed.

Port Beaufort had been established, in name, at the mouth of the Breede River when in 1816 it had been ascertained that the river was navigable by small cutters for a distance of fifty kilometres upstream.<sup>114</sup> This opened up the possibility of developing a water-borne carrier trade with the hinterland of the District of Swellendam and beyond. In 1831 Cole had granted a portion of land in freehold at the river's mouth for the establishment there of a mercantile warehouse to be jointly owned by the subscribers to a scheme of development. D'Urban's ordinance was passed to clear up the confusion which existed concerning Cole's grant, and "to give further and more ample powers to the trustees". The thrust of the ordinance was to encourage the commercial development of the port, and it clarified the rights of the shareholders, the division and allocation of the erven of the grant in accordance with the number of shares held by each individual, the tenure of office of the trustees, the voting procedures to be adopted by shareholders, the conduct of suits and actions against shareholders, the removal of trustees, and the settling of differences between trustees and shareholders. The ordinance concluded with the customary paragraph which declared nothing in the preceding legislation could be construed as

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<sup>112</sup>C.A., A519, Vol. 14, pp.68-71, D'Urban to Glenelg, 1 January, 1838.

<sup>113</sup>Statute Law of the Cape of Good Hope, pp.371-9, Ordinance 7 of 1836.

<sup>114</sup>Theal, Vol. I, p.310.

affecting the rights of "our Sovereign Lord the King, his heirs and successors, or of any body politic or corporate, or of any other person or persons excepting those for whose especial benefit this ordinance is made and all persons claiming by, from, through and under them."<sup>115</sup>

But the ordinance did little to further the advance of Port Beaufort, as trade moved with the frontier, and it remained the backwater it had always been. Besides coastal affairs after 1838 took a further step north with the occupation of Port Natal which offered better harbour facilities and a greater and essentially untapped hinterland for commercial penetration. It was also strategically important in terms of a base in the rear of the Xhosa and, more important, in preventing its use by the emigrant Boers then flooding into Natal.

While many of D'Urban's measures of a local or economic nature like the Municipal Ordinance of 1836 were enthusiastically welcomed, some measures he sought to introduce met with fierce and almost universal resistance. Stanley's despatch of 27 November, 1833, had announced the British government's wish that burgher commandos be abolished and a substitute found. The war of 1834-5 convinced D'Urban of the necessity for a trained militia rather than ad hoc levies, and indeed in his despatch of 26 December, 1835, Glenelg specifically stated that the shortfall between the regular troops stationed at the Cape by the British government and the defence requirements of the Colony would have to be met by a local militia.<sup>116</sup> A memorandum from the Governor dated 28 September, 1835, to all Civil Commissioners instructed Field Cornets to produce lists of all the men in their districts between the ages of 16 and 55, with details of their horses and firearms, for the purpose of forming a militia.<sup>117</sup> Clearly D'Urban meant to reform the organisation and discipline of the old commando force, but the Dutch inhabitants, who would form the backbone of this proposed unit, saw their enforced attestation into it, and long periods away from home.

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<sup>115</sup>Statute Law of the Cape of Good Hope, p.379, Ordinance 7 of 1836, Clause 22, p.379.

<sup>116</sup>p.p., 1836, XXXIX, (279), p.70, Glenelg to D'Urban, 26 December, 1835.

<sup>117</sup>Cory, Vol. III, p.222.

Commando duty had nearly always been unpopular. As Wade explained to Stanley in a despatch dated 10 December, 1833, it was no light evil for a colonist in the sparsely populated frontier areas, and therefore dependent upon himself for the protection of his family and home, to be called away, even for a few days.<sup>118</sup>

The lists were not forthcoming for every reason from sickness to inability to obtain the correct ages of the men involved, and Meintjes the Civil Commissioner for Beaufort seems to have been the only government functionary able to send in a return.<sup>119</sup> D'Urban's scheme thus fell through and within the year many of the men who would have formed the militia had trekked beyond the Colony's frontiers. In this, as with many of his measures concerning the Eastern Districts, D'Urban was singularly unsuccessful.

D'Urban's administration at the Cape was hardly spectacular in its achievements, or flamboyant in its methods. His administration was instead painstaking, conscientious and subject to the stress which war and the unsettled condition of the frontier subjected it. To earlier Governors fall the laurels for nurturing the administrative and judicial structure of the Cape, the development of its commercial base, and the delineation of its infrastructure of hospitals, prisons and other social necessities. To D'Urban fall the laurels for the implementation of one of the greatest social changes of all - slave emancipation - and for the introduction of the Cape's first Legislative Council and the beginnings of municipal government. As indicated earlier, there were the beginnings of a policy of the devolution of power away from the centre of government. Although the constitutional changes were comparatively minor in terms of the whole, they pointed the way to fully representative government in 1853, and beyond to responsible government in 1871.

The theme throughout D'Urban's governorship was one of social progress and development, and should not be viewed in the light of a

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<sup>118</sup>P.P., 1835, XXXIX, (252), p.67, Wade to Stanley, 10 December, 1833.

<sup>119</sup>Cory, Vol. III, p.224.

single governorship. D'Urban picked up the threads from his predecessor, and continued the task of wefting and warping them to form the unfolding web of Cape society before handing on the loom of governorship to Napier. In such a manner he discharged the trust the Crown had placed in him.

## CHAPTER NINE

### CONCLUSION : A FINAL ASSESSMENT

D'Urban was dismissed from his position as Governor of the Cape because his despatch of 9 June, 1836, was grossly insulting to Glenelg, but more fundamentally because by May, 1837, the Secretary of State had come to realise that D'Urban had not become reconciled to the change in the system to regulate frontier affairs, and if not exactly endangering its success, his attitude was impairing its implementation.<sup>1</sup> Glenelg therefore belatedly corrected his earlier error, and worked upon the principle that a change in policy necessitated a change in the Cape's executive structure at its highest level.

Glenelg's despatch of 1 May, 1837,<sup>2</sup> announced that as a result of the Secretary of State's representations, His Majesty thought proper to dispense with D'Urban's services as Governor of the Cape. Glenelg declared regretfully that despite their differences, he had hoped to receive the Governor's continued assistance and co-operation in the implementation of a new frontier system. But he explained his hope had finally faded with the receipt of D'Urban's despatch of 9 June, 1836, which had, in fact, only been received at the Colonial Office in January, 1837. D'Urban's despatch also had the secondary effect of forcing Buxton's Aborigines Committee drastically to amend their final report in the light of the information supplied by that despatch and its lengthy enclosures, and reduce it to a "colourless and innocuous Report."<sup>3</sup>

Glenelg objected to the tone of that despatch. He considered it lacking in the characteristic respect and courtesy of the subordinate

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<sup>1</sup>Galbraith, Reluctant Empire, p.141, was more harsh in his criticism and declared "The Stockenstrom system was undermined by the hostility of the governor." The fact that it lasted, albeit with decreasing effectiveness, until the outbreak of war in 1846, eight years after D'Urban's dismissal, serves to weaken Galbraith's bald statement.

<sup>2</sup>C.A., G.H. 1/114, Glenelg to D'Urban, 1 May, 1837. Received at the Cape 26 August, 1837.

<sup>3</sup>Macmillan, Bantu, Boer and Briton (1963 edit.), pp.187-9.

for his superior when both were engaged in the service of their common sovereign. D'Urban was consequently to hold his office until relieved by his successor. A pencilled comment by D'Urban in the margin of the last page of the despatch seems to indicate his disbelief that his despatch of 9 June, 1836, alone was the reason for his dismissal. He declared: "So that it is for my Letter and that only - vindicating the Colony, my officers and myself - that His Majesty has been moved to recall me."<sup>4</sup> A further communication on 8 September informed the Governor that he might retire whenever it suited his convenience, after transferring the administration temporarily to the military officer next in rank.<sup>5</sup> D'Urban declined and presented the seals of office to his successor, Major-General Sir George Napier, in January, 1838.

D'Urban received Glenelg's despatch on 26 August, 1837. Napier only arrived at the Cape on 20 January, 1838. The delay between D'Urban's dismissal and the arrival of his successor was the result of the procrastination of the Melbourne Ministry, but it ensured that D'Urban's irascibility would be felt by Stockenstrom.

D'Urban did not forget his dismissal and his humiliation. Galbraith declared that "like a magpie he collected every scrap of evidence that seemed to support his contention that his measures had been a success."<sup>6</sup> He retired to Wynberg near Cape Town and from a private note in his collection in the Cape Archives, it is clear D'Urban's action was dictated by his hesitancy to incur the cost of the return to Europe together with a desire to await events at the Cape, and the realisation that he was better situated there with regard to India, "whither my views and endeavours for future military appointment must be directed."<sup>7</sup>

D'Urban was never again to hold a position in Britain's colonial administration. But his past services as a soldier were forgotten by neither the Horse Guards, the Crown nor the Tories when in September, 1841, Melbourne's Ministry was followed by Peel's second administration.

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<sup>4</sup>Glenelg to D'Urban, 1 May, 1837, op.cit., p.10.

<sup>5</sup>Theal, Vol. II, p.171.

<sup>6</sup>Galbraith, op.cit., p.122.

<sup>7</sup>C.A., A519, Vol. 28, pp.33-4, Note: 29 November, 1837.

In January, 1837,<sup>8</sup> D'Urban had been promoted by brevet to the rank of lieutenant-general; three years later, in June, 1840, the order of Knight Grand Cross of the Bath was conferred upon him. Soon after Peel came to power, D'Urban was considered for the office of commander-in-chief of the army in India.<sup>9</sup> The post went to Sir Hugh Gough,<sup>10</sup> but in April, 1846, D'Urban left the Cape - after receiving the addresses of its citizens, and being fêted at a farewell dinner in Cape Town - to take up the command of the British troops in Canada.<sup>11</sup> D'Urban held this post from January, 1847, until his death in May, 1849, during which time the military were called upon to check the Elgin riots<sup>12</sup> during a period of popular agitation for greater self-government.

D'Urban's continued employment solely in the military was significant for two reasons. It indicated that the Colonial Office no longer had faith in his ability to handle matters of a civil nature, but it also suggested that D'Urban's colleagues in the Horse Guards had not forgotten him. With regard to D'Urban's enduring military career, Glenelg's despatch of 1 May, 1837, was particularly illuminating.

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<sup>8</sup>S.A.P.L., Z.A., 31 March, 1837.

<sup>9</sup>C.L., G.T.J., 23 June, 1837. Also Lehmann, Remember You are an Englishman, pp.214-5.

<sup>10</sup>Sir Hugh Gough (1779-1869), first Viscount Gough, saw service in the Peninsular War, and his later military success in China in 1841-2 secured him the appointment as commander-in-chief in India in 1843. See D.N.B., Vol. XXII, pp.274-6.

<sup>11</sup>D'Urban's only son, William James D'Urban, later joined him as deputy quartermaster general. He had taken part in the British occupation of Natal in 1842 as a major of infantry, and later saw service in India. (See C.A., A519, Vol. 9, pp.120-3, Cloete to D'Urban, 28 January, 1843.) In the early 1860s he was back in South Africa, and commanded troops in British Kaffraria.

<sup>12</sup>Named after the Governor-General of the day, James, eighth Earl of Elgin (1811-1863), son-in-law to Lord Durham with whose views on Canada he sympathised. The riots of April, 1849, led to the burning of the Parliament buildings in Montreal, and although sparked from a projected enactment known as the Rebellion Losses Bill, its roots lay in the major problems which confronted Elgin - the intense animosity between French and English settlers, demands for greater freedom from British control, economic problems after the repeal of the Corn Laws in England, and strained relations with the United States. During his Governor-Generalship (1846-54) Elgin effectively set the pattern of responsible government. See C.P. Stacey, Canada and the British Army, 1846-71, pp.64-88.

In a volte face to his despatch of 26 December, 1835, the Secretary of State expressed complete confidence in D'Urban's military handling of the war of 1834-5, uninfluenced by feelings of vengeance, and prosecuted to protect the King's subjects, a duty Glenelg declared D'Urban was bound to perform at whatever cost to the Xhosa. He stated:

The principle of vengeance being now distinctly disavowed, I am able to understand, in the more favourable sense, the various expressions in which it formerly appeared to be asserted. I am happy to state my persuasion that in your proceedings in regard to the Caffres, you acted under a conviction that all your measures, as they were required by the necessity of the occasion, so also were limited by it. However much I regret the pain which my observations on that point may have given you, I cannot but express my sincere satisfaction that they have drawn from you so unequivocal a vindication of your motives and principles. <sup>13</sup>

To what extent the Horse Guards influenced these pronouncements, if in fact they did, is uncertain. But Cape Governors before 1854 were chosen by the Ministry of the day after consultation<sup>14</sup> with the Horse Guards, and Walker in his characterisation of a Cape Governor as a "member of the Horse Guards dynasty and responsible to the Secretary of State for War and the Colonies three months' sail away in Downing Street"<sup>15</sup> certainly indicated the dual though unequal nature of the Governor's fealty.

The Colonial Office was jealous of its authority over the Governor for good reason. When D'Urban neglected to give Glenelg a full report of the cost of the war and referred him instead to his despatch of 2 July, 1836, and its enclosures to the Secretary to the Treasury, the Military Secretary of the General Commanding in Chief, and to the Secretary at War, Glenelg rebuked<sup>16</sup> the Governor for his failure to

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<sup>13</sup>C.A., G.H. 1/114, pp.17-18, Glenelg to D'Urban, 1 May, 1837.

<sup>14</sup>Galbraith, op.cit., p.142. The term Horse Guards was synonymous with army headquarters and its commanders, and derived its name from the building opposite Whitehall in London which at this time served as the headquarters for several regiments of the Guards, and for offices of some departments of the War Office.

<sup>15</sup>Walker, The Great Trek, p.16.

<sup>16</sup>C.A., A519, Vol. 5, pp.93-6, Glenelg to D'Urban, 30 September, 1836.

transmit to the Colonial Office the enclosures of these separate communications. He pointed out that D'Urban was not authorized to enter into correspondence with other departments, and that it rested with the Secretary of State alone to signify the Crown's instructions and the views of its advisers.

Glenelg's reason for this instruction was that such correspondence put the Colonial Office in command of all the necessary details so essential for "uniformity of design and consistency of principle in the conduct of all matters brought into discussion between the Colonial Government and His Majesty's Government..."<sup>17</sup> and assisted the delineation of national policy. All correspondence was henceforth to be addressed to the Secretary of State for War and the Colonies, although Glenelg acknowledged that in his military capacity, D'Urban would continue to inform the Horse Guards on matters which related to the welfare, discipline and movement of the troops under his command.

D'Urban was certainly disappointed in the reluctance of the Horse Guards to support him more actively during his governorship. In the margin of a letter sent to him by Fitzroy Somerset dated 16 April, 1835, D'Urban wrote with a touch of bitterness: "The only answer returned from the Horse Guards to all my comments of 1835, 1836, 1837, 1838."<sup>18</sup> The generals at the Horse Guards were obviously well aware of their subordinate role in matters of policy.

While resident at Wynberg, D'Urban amassed the evidence to defend his settlement, together with copies of all the relevant despatches for the period 1835-7. These copied despatches form a large portion of the present D'Urban collection in the Cape Archives. They have been extensively annotated by D'Urban, and it is possible that he did so at different periods over a number of years and with an increasing and bitter subjectivity. D'Urban's handwriting was poor and at times totally illegible, but throughout the theme was one of self justification. Most of these copies he obtained<sup>19</sup> through William

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<sup>17</sup>Ibid., pp.95-6.

<sup>18</sup>C.A., A519, Vol. 1, pp.175-6, Fitzroy Somerset to D'Urban, 16 April, 1835. Somerset, writing on behalf of Lord Hill, declared his regret that war had broken out with the Xhosa, but his Lordship hoped D'Urban would speedily overcome his difficulties.

<sup>19</sup>See, for example, C.A., A519, Vol. 8, pp.37-9, William Smith to D'Urban, 26 October, 1838: "I have been disappointed in having

Smith, first Clerk at the Colonial Office in Cape Town, and a man D'Urban had appointed to that post in September, 1835.<sup>20</sup>

The fact that William Smith was prepared to help D'Urban to build up this collection of documents indicated an interesting facet of D'Urban's character - his ability to win the loyalty of his subordinates. Bell had kept D'Urban carefully informed of events while the latter was on the frontier; Beresford and Cloete in London had faithfully supported the annexation of Queen Adelaide Province, ignorant of changed circumstances wrought by the September treaties. Warden and Bowker staunchly kept D'Urban informed of events on the frontier during Stockenström's Lieutenant-Governorship, and even Harry Smith, while ridiculing D'Urban's caution and champing at his restraint, offered his superior a great compliment from a fellow soldier and declared him "a perfect soldier in the field."<sup>21</sup>

D'Urban was understandably popular with the colonists, particularly on the frontier. For many years after his dismissal The Graham's Town Journal, under the influence of Robert Godlonton, fostered his reputation and the legend of the D'Urban system under which all would have prospered in a deliberate campaign against the highly unpopular treaty system.<sup>22</sup> D'Urban also had an admirable supporter in James Centlivres Chase who stylised D'Urban as "The Good".<sup>23</sup>

D'Urban fostered his reputation as a 'good' and popular governor with a collection<sup>24</sup> of documents, published in 1838, which claimed to

the services of Mr [?] in copying for the collection, which has consequently been at a stand, but I am now able to look a little to it myself as far as looking for enclosures, etc. goes..."

<sup>20</sup>C.G.H.B.B., 1835, p.85, Civil Establishment.

<sup>21</sup>Moore Smith (ed.), Autobiography of Lieut.-Gen. Sir Harry Smith, p.729, Smith to his wife, 1 April, 1835.

<sup>22</sup>See p.5.

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Wilmot and Chase, A History of the Cape of Good Hope from its Discovery to the year 1819, and from 1820 to 1868, p.304.

<sup>24</sup>Public Documents showing the Character of Sir Benjamin D'Urban's Administration of the Government of the Colony of the Cape of Good Hope, especially with regard to the Kafir Tribes beyond its Frontier, from the beginning of 1834 to the beginning of 1838.

show the character of his administration of the Colony, with especial regard to the frontier. It contained a series of addresses, petitions and resolutions from a variety of groups and organisations, ranging from the Wesleyan Missionaries of Albany to the Council of Directors, Senate and Shareholders of the South African College; all acclaimed D'Urban's frontier settlement and his enlightened administration. In a letter to Harry Smith dated 20 March, 1839,<sup>25</sup> D'Urban described how he had collected these documents and had published them without any commentary, for the satisfaction of his true friends and in order to show that his dismissal had not been the result of any misconduct or dereliction of duty in his administration. He also described how he had prevented any of these copies circulating in the Colony so as not to excite feeling against the treaty system. D'Urban was particularly and understandably concerned about his reputation in Britain and copies of this collection were sent to his relatives, the Duke of Wellington, Sir Herbert Taylor, Sir Willoughby Gordon and a list of people who read like a who's who of the British Army and the Tory Party. D'Urban declared: "I trust that those papers will speak for themselves, so far as I am concerned, and that my friends will find no reason to think the worse of me for my conduct at the Cape."<sup>26</sup> For D'Urban, the collection and publication of these documents was an act of self-vindication.

D'Urban's impact on Cape affairs between 1838 and 1846 is difficult to assess. As indicated above, he was careful not to let copies of his pamphlet circulate in the Colony "to avoid exciting any feeling here of an adverse tendency to the measures and policy which have succeeded to mine."<sup>27</sup> Although his system was frequently alluded to in the frontier press as the panacea for all frontier ills, D'Urban seems to have maintained his sense of responsibility by living quietly in Wynberg, and conducting an extensive, but private, correspondence with his friends and well-wishers. In the Cape Archives, however, there are a series of letters from Napier to D'Urban and D'Urban's replies which indicate not only that the former Governor's

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<sup>25</sup>C.A., A519, Vol. 19, pp.83-90, D'Urban to Smith, 20 March, 1839.

<sup>26</sup>Ibid., p.86.

<sup>27</sup>Ibid., p.84. (D'Urban's emphasis.)

opinion and advice were sought and gratefully received, but also that he was given access to current official despatches.

In a letter to D'Urban dated 26 November, 1842, Napier included a copy of a despatch from the Secretary of State, Lord Stanley,<sup>28</sup> connected with the occupation of Durban by Captain Smith in May, 1842, and the setback inflicted upon him at Congella by the emigrant farmers.<sup>29</sup> Napier declared:

You will perceive that the whole blame is given to me for sending a force which his Lordship thinks quite disproportionate to the object in view...It is my intention unless you from any cause or reason of your own, object to granting me the favour, to write you a short letter, soliciting your kindness to give me your opinion as a General officer of such high standing in the opinion of his Grace the Commander in Chief and the whole army, as well as your great experience of this Colony, as to the insufficiency of the Force I sent...under Capt. Smith to take possession of Port Natal...<sup>30</sup>

In his reply D'Urban declared simply: "...in my opinion, all circumstances considered, that force was fully sufficient for its object."<sup>31</sup>

Napier's response was effusively appreciative, and an indication of his relief that his action had found support. He stated:

Many thanks for your letter and notes which are most valuable to me publicly as the proof that I was not mistaken in my military judgement when that judgement has been supported by such high military authority as yourself, and privately by the assurance they give me of the friendship and kind willingness with which you have always given me your candid opinion and thereby conferred a debt of gratitude on. <sup>32</sup>

With regard to D'Urban's governorship, one of the few things most authorities agreed upon - excluding his most ardent partisans,

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<sup>28</sup>Secretary of State for War and the Colonies, September, 1841 - December, 1845, for a second time in Peel's second Ministry.

<sup>29</sup>See Brookes and Webb, A History of Natal, pp.38-9.

<sup>30</sup>C.A., A519, Vol. 9, pp.103-6, Napier to D'Urban, 26 November, 1842.

<sup>31</sup>C.A., A519, Vol. 19, p.152, D'Urban to Napier, 28 November, 1842.

<sup>32</sup>C.A., A519, Vol. 9, p.109, Napier to D'Urban, 1 December, 1842. (Napier's emphasis.)

who ignored it - was the Governor's remissness in his despatch writing. Galbraith declared that D'Urban's failure to inform his superiors of the details of his September policies was "not reconcilable with efficient or intelligent self-interest."<sup>33</sup> Macmillan described D'Urban as "quite extraordinarily reticent" throughout 1835 and believed that he combined the error of failing to give London a clear indication of his need for specie and reinforcements, with his consistent failure to give a clear explanation for the causes of the war.<sup>34</sup> This view was based firmly upon Glenelg's despatch of 1 May, 1837.

With slow and inexorable logic, Glenelg shredded the barbed criticism of D'Urban's despatch of 9 June, 1836, particularly D'Urban's claim that the Colonial Office had been unsympathetically silent about the plight of his administration at the Cape between April and December, 1835. The Secretary of State pointed out that he had taken charge of the Colonial Office on 18 April, 1835, and that he had acknowledged D'Urban's despatch of 20 January to Aberdeen by his of 30 April. His silence thereafter had been dictated by D'Urban's despatch of 19 March. This communication seemed to indicate that the war would soon be ended, after which despatch D'Urban himself had been silent for three months. In the interval of D'Urban's deliberations - of which London was obviously uninformed - Glenelg declared with complete candour that the Colonial Office could not have assisted the Governor. He stated:

Unable to relieve you from the responsibility which you had unavoidably incurred, I thought, and still think, that it was incumbent on me not to perplex or harass you with instructions which could not reach you till after the occasion, with reference to which, they professed to direct your conduct, had passed away...I entertain the deliberate conviction that it was impossible for me to write any thing on the subject which could have advanced beyond a conjecture, and that by addressing you in that manner, I should have incurred the serious risk of doing mischief with an exceedingly small probability of contributing any thing to your assistance. <sup>35</sup>

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<sup>33</sup>Galbraith, Reluctant Empire, p.128.

<sup>34</sup>Macmillan, Bantu, Boer and Briton (1963 edit.), p.159.

<sup>35</sup>C.A., G.H. 1/114, pp.33-5, Glenelg to D'Urban, 1 May, 1837.

When D'Urban's despatch of 19 June, 1835, reached the Colonial Office, it had been realised that the war was not to end with the defeat of the Xhosa. After much anxious deliberation, thought and inquiry, Glenelg had sent D'Urban his despatch of 20 October, 1835,<sup>36</sup> in which he declared that His Majesty's Government doubted the justice and policy of the annexation. D'Urban was accordingly instructed to make no grants of land and to build no fortifications in the new territory while the British government considered the propriety and implications of the acquisition. Glenelg frankly conceded that D'Urban might be called to rescind the annexation.

Two months elapsed before Glenelg transmitted his December despatch, in which he explained that this delay had been occasioned by a lack of information from D'Urban giving a clear and comprehensive explanation of the causes for the invasion. Glenelg pointed out that Aberdeen had specifically asked for such information in his despatch of 11 April, 1835, and pointed out that D'Urban's reply was "the answer to which all the rest depended."<sup>37</sup>

To counter D'Urban's accusations of a lack of material support, Glenelg emphasised that no reinforcements could have reached the Cape before July, by which time the war was at an end. With regard to money, the Secretary of State defended himself by stating that D'Urban had authority to draw on the Lords of the Treasury. But in fairness to D'Urban, their Lordships were less than prompt in assisting the Colonial Treasury, and the Provisional government, Deputy Commissary General Petrie, and D'Urban, had resorted to every expedient, short of producing more colonial paper currency, and that was their determination even with the timeous arrival of a consignment of specie.<sup>38</sup>

By these remarks, Glenelg incisively underscored an aspect of D'Urban's governorship that continues to defy rational explanation. He remarked that in the whole series of D'Urban's despatches there had not been the slightest allusion to any actual or foreseen deficiency, either of troops or funds. Dracopoli has suggested that D'Urban

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<sup>36</sup>P.P., 1837, XLII, (503), p.1, Glenelg to D'Urban, 20 October, 1835.

<sup>37</sup>Glenelg to D'Urban, 1 May, 1837, op.cit., p.39.

<sup>38</sup>See pp. 85-6.

omitted much from his reports "that was so obvious to him that he never bothered to write it down"<sup>39</sup> assuming that London understood Cape problems. There is no evidence that D'Urban adopted such an attitude to his governorship of British Guiana, and this view is rendered unlikely by a consideration of the fact that D'Urban had only recently experienced the Colonial Office's long delay in sending instructions to implement slave emancipation with an imperfect consideration of the Cape's unique problems - slaves spread over vast distances employed in a variety of tasks as opposed to the compact concentration of slaves on the West Indian sugar islands.<sup>40</sup> Even less acceptable is Dracopoli's assertion that the Governor's "seeming indifference and insulation from Whitehall, which prevented this vital information from being sent, was a product of distance and the character of Africa itself, a country of extremes where reason finds difficulty in taking root."<sup>41</sup> Macmillan is probably more correct in ascribing D'Urban's reticence to his "extraordinary secretiveness."<sup>42</sup>

The whole of D'Urban's contact with Philip in mid-1834, in the matter of evolving a reformed frontier system, was conducted beneath a veil of secrecy. D'Urban was also frequently negligent in keeping his subordinates advised of the direction of his policies. Lieut.-Colonel Somerset was never informed that Philip's visit to the frontier in the period August to October, 1834, was also to prepare for D'Urban's forthcoming visit. Bell, head of the Provisional government only learnt of D'Urban's annexation after it had been announced on the banks of the Kei River on 10 May, 1835. He expressed his surprise and declared he scarcely expected to hear of its attachment to the Colony "in so formal and conclusive a manner."<sup>43</sup> He was also left uninformed as to D'Urban's date of return to Cape Town from the frontier.

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<sup>39</sup>Dracopoli, Sir Andries Stockenstrom, p.108.

<sup>40</sup>See pp.98-9; p.147.

<sup>41</sup>Dracopoli, *op.cit.*, p.108.

<sup>42</sup>Macmillan, *op.cit.*, p.118.

<sup>43</sup>C.A., A519, Vol. 2, pp.36-8, Bell to D'Urban, 29 May, 1835.

Again, in fairness to D'Urban, the state of the frontier kept him 'hovering' in its immediate vicinity. From Uitenhage, he informed Bell on 7 November, 1835, that he wished to observe the workings of his system from a close vantage point before he was "quite out of reach".<sup>44</sup> Three weeks later he informed Bell of the expediency of his precaution, and the necessity to put a brake on Smith's exuberance. In a penetrating critique of Smith's character, which largely seems to undermine the opinions of historians like Engels,<sup>45</sup> Soga<sup>46</sup> and Macmillan,<sup>47</sup> of D'Urban as malleable to the drive and fire of his second-in-command on the frontier, D'Urban informed Bell:

In truth my apprehensions (they have always, but especially of late, somewhat presented themselves to me) of our Friend Smith's discretion, when left alone, have of late, been too strikingly verified, and I am glad that I have not been too far off. Nor have I, taught by recent matters, left him, for the time that he may remain behind me, with powers so full as I had once meditated, and as in truth, would be advantageously for the interests of the service, if I could safely venture to entrust them. His abilities are of an excellent order, but he must, I see be used as a lever of which the fulcrum is near at hand. He imbibes hasty and extreme opinions and acts upon them extremely, losing sight for the moment of all but the immediate object and forgetting its collateral bearings, and that all we do must be combining parts of a general system, if we would do well at all.<sup>48</sup>

This would seem to suggest that D'Urban kept a close rein on Smith while the latter was in charge of Queen Adelaide Province, but managed him in such a manner so as not to destroy his obvious suitability for the task. However, D'Urban's patience had its limits. In a letter to Smith dated 8 December, 1835, he firmly rebuked his second-in-command:

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<sup>44</sup>C.A., A519, Vol. 22, pp.4-6, D'Urban to Bell, 7 November, 1835.

<sup>45</sup>Engels, 'Sir Benjamin D'Urban's Handling of the Frontier Problems, 1834-1836', p.7.

<sup>46</sup>Soga, The South Eastern Bantu, p.198.

<sup>47</sup>Macmillan, op.cit., p.130; pp.168-72.

<sup>48</sup>C.A., A519, Vol. 22, pp.26-30, D'Urban to Bell, 27 November, 1835.

...I have now and then cause for apprehension on account of your Discretion, as in danger of being thrown overboard by your vivacity - by your imbibing hasty & extreme opinions, & acting upon them hastily & extremely - lose sight for the moment of all but the object in your view - regardless of its collateral bearings upon others of equal or perhaps greater importance - & forgetting that all we do must be combining parts of a general system if we would do well at all. Hence too, my instructions must sometimes be overlooked. I am aware that they may appear tame & languid to your more vivid imagination - & for aught I know they may often be foolish enough - but if they be so I am responsible for them. This apprehension & the reflections which it necessarily leads (I am bound to tell you in all candour...) have suggested to me serious doubts as to the safety of trusting very large & extreme power in your hands.<sup>49</sup>

Less understandable was D'Urban's failure to keep Beresford and Cloete in England informed of the essential and vital differences between his May and September policies, and his failure to notify Stockenstrom of his suspension of martial law the day after the Lieutenant-Governor had left Cape Town. While the Cape Archives contains a mass of D'Urban's official correspondence, and his semi-official letters to Bell, Smith, Bowker and others, the collection contains no correspondence either to or from his wife, son and daughters.<sup>50</sup> If these letters exist and come to light, it is possible they will provide an entirely new perspective and give an insight into D'Urban's private emotions and perhaps help explain his motivation in such matters as his negligent despatch writing and why he considered Glenelg's 26 December despatch as a personal affront rather than an official rebuke.

That he did take it personally there can be no doubt. Glenelg disclaimed any intention of offering D'Urban insult.<sup>51</sup> In his despatch

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<sup>49</sup>D'Urban to Smith, Very Private, 8 December, 1835, quoted in Galbraith, Reluctant Empire, p.120. (D'Urban's emphasis.)

<sup>50</sup>Apart from a son, William, D'Urban had at least two daughters, one of whom married William Musgrave, one time Solicitor General for Antigua, Barbuda and Montserrat, and later judge of the Cape Supreme Court. D'Urban's last years at the Cape were marked by personal tragedy - in September, 1837, his eldest grandson was killed in a riding accident, and his wife of forty-six years died in August, 1843. See D.N.B., Vol. II, pp.205-7; pp.506-7.

<sup>51</sup>G.H. 1/114, Glenelg to D'Urban, pp.85-6, 1 May, 1837.

of 1 May, 1837, the Secretary of State also pointed out that during the time between his receipt of the despatch of 26 December and the communication of his of 9 June, 1836, D'Urban's official correspondence had been carried on in the usual tone and with the usual frequency, a circumstance which Glenelg declared had not prepared him for the offending despatch. For almost a whole year D'Urban had silently brooded over the wrongs of the December, 1835, despatch, particularly the aspersions on his military integrity.

In the prevailing mood of the British government in the mid-1830s, D'Urban's annexation of the trans-Keiskamma territory was unacceptable. The profound influence<sup>52</sup> of the humanitarians in the British Parliament of the day was reflected in the tone of Glenelg's December despatch, with its emphasis on the injustice of the annexation.

Glenelg's despatch of 1 May also mirrored the caution with which he, as a Minister of the Crown, approached Parliament. D'Urban had criticised Glenelg for allowing his "separate and private" despatch of 28 October, 1834, to be published in a parliamentary blue book.<sup>53</sup> Glenelg pointed out that Ministers of the Crown had the privilege of deciding for themselves whether they would or would not accept any confidence tendered to them. He also pointed out that the advantages of disclosing the contents of the Governor's despatches to Parliament were many, particularly on so sensitive a subject as the Cape frontier. He declared:

It enabled His Majesty's Government to assert that the Legislature were in possession of all the information which it was in my power to supply bearing on the question of our Border Relations. Had I not made public the fact that Government were acting in opposition to your advice, and had I not communicated to Parliament the precise grounds of that opposition, I could not effectually have assumed to myself and removed from you, the responsibility attendant on the measure which had been adopted. 54

D'Urban seems to have failed to recognise the fact that Glenelg was a politician. With the focus so sharply set on the Cape after the

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<sup>52</sup>See pp.61-2.

<sup>53</sup>P.P., 1835, XXXIX, (252), p.103, D'Urban to Spring Rice, 28 October, 1834.

<sup>54</sup>Glenelg to D'Urban, 1 May, 1837, op.cit., pp.63-4.

war, and with Buxton's Aborigines Committee probing the colonial administration's weaknesses, with particular regard to the frontier, Glenelg would have been particularly careful not to antagonise Parliament by withholding information. Besides, the Commons had the power to demand the publication of such papers as it required. Furthermore Glenelg's sympathies lay with the humanitarians.

Galbraith has clearly indicated that D'Urban's governorship coincided with an "era of penurious government",<sup>55</sup> and that the further financial burden of administration and defence in Queen Adelaide Province would never be shouldered by the British government, particularly as so little in commercial return could be obtained from the Cape, a fact C.W. de Kiewiet underlined when he declared: "The British Government shrank before the expense and labour of establishing an elaborate frontier system in a colony so poor as the Cape."<sup>56</sup> The Colonial Office had directed retrenchment in the Cape's administration in 1834 and D'Urban had been aware of the need for economy in his administration. In his annexation, D'Urban realised that he was incurring additional financial responsibility in violation of his Instructions, but he quite honestly believed his settlement was the securest and cheapest solution to the frontier problem, and that the money spent in 1835 and a policy of direct control would assist in preventing the outbreak of any further and necessarily expensive wars. Such was not the view of the British government, interested in immediate economies. D'Urban's solution was an immediate military answer to the problem, upheld by martial law and a rapidly developed but expensive network of forts and connecting roads, under the cover of which a long term programme of civilisation was to be imparted. As has also been shown,<sup>57</sup> it is possible to argue that D'Urban hoped Peel's Tory Ministry, formed in December, 1834, and which he assumed to be still in power in May, 1835, would support his measure sufficiently to neutralise the outcry from the humanitarians. After all, Aberdeen had accepted D'Urban's explanation contained in his despatch of 28 October, 1834, concerning the

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<sup>55</sup>Galbraith, *op.cit.*, p.122.

<sup>56</sup>C.W. de Kiewiet, A History of South Africa: Social and Economic, p.52.

<sup>57</sup>See pp.201-5.

delay in arriving at a suitable replacement for commandos by 1 August, 1834 - the date set for their formal abolition. Aberdeen had also permitted Civil Commissioners to continue to call-out the colonists in the manner prescribed by those laws still in force after the repeal of Ordinance 99, but had warned against further delay.<sup>58</sup> Such an allowance on the delicate political matter<sup>59</sup> of commandos might have persuaded D'Urban to believe further allowances could be made to meet a difficult problem.

The extent of the support D'Urban could count upon was indicated by the fact that William IV had opposed<sup>60</sup> any peremptory order to D'Urban to abandon Queen Adelaide Province. Bell certainly kept D'Urban on the frontier in 1835 informed of political events in England, but of course they moved faster than D'Urban could be informed, and he had already annexed the territory, attempted to implement his May policy and informed Aberdeen of it in his despatch of 19 June, 1835, before he was aware that the Whigs were again in power with Glenelg at the helm at the Colonial Office.

D'Urban's settlement of the frontier was in operation effectively from September, 1835, until August, 1836. The settlement's short duration meant that its success or otherwise could never be accurately assessed. It also allowed D'Urban and his supporters to argue that had his frontier arrangements been given a fair trial, the frontier problem would have been solved.

On the frontier after 1839 Stretch was a lone voice against the practicality of the D'Urban settlement and discerned one of its major weaknesses as the supplanting of the rank and importance of the chiefs among the people.<sup>61</sup>

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<sup>58</sup>See Appendix 7.

<sup>59</sup>That it was a matter of political concern in England was clearly indicated by Stanley's despatch to D'Urban of 27 November, 1833, and his use of the phrase "fearful scourge" to describe the commando system reflected abhorrence felt by the humanitarians. C.A., G.H. 1/97, p.69, Stanley to D'Urban, 27 November, 1833.

<sup>60</sup>See Macmillan, Bantu, Boer and Briton (1963 edit.), p.176; Galbraith, Reluctant Empire, pp.129-131.

<sup>61</sup>See Stretch, Memorandum, Q1.

Something which seems to have escaped mention in the many analyses of the D'Urban settlement is the fact that the chief executive official upon whom much depended in the new Province, Smith, had been closely connected with the immediate events leading up to, and subsequent to, Hintsa's death. Although acquitted<sup>62</sup> of any guilt by the Court of Inquiry held at Fort Willshire in August-September, 1836, it is probable that some of the guilt for that action, coupled with the fact that Hintsa's body was left to the dogs<sup>63</sup> and not accorded the honours befitting a Paramount, tarnished Smith's credibility in the eyes of the unsophisticated tribesmen he governed.<sup>64</sup> Such a view is in strong contrast to Smith's own interpretation of the regard of the tribes for him.<sup>65</sup>

D'Urban's policy of annexation in 1835 was largely discredited through a combination of several factors, principally questions of immediate expense, and abstract justice coupled with D'Urban's neglect in providing timely information about the causes of the war, and his failure to adopt at an early stage a more forceful and determined defence of his policy.

Yet what D'Urban had done by extending the frontier line to the Kei River came to pass within eleven years of the abandonment of Queen Adelaide Province and after another frontier war. At the end of the War of the Axe in December, 1847, the Governor, Sir Harry Smith, formally annexed British Kaffraria to the Crown. The foundations for this annexation had been laid by Lieut.-General Sir Peregrine Maitland in September and revised in November, 1846.

Maitland had first proposed<sup>66</sup> to take possession of all lands up to the Buffalo River, and to exclude from them all the clans which

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<sup>62</sup>See p.234.

<sup>63</sup>Interview with Chief Maqoma, Zwelitsha, 7 May, 1980. Cory, Vol. III, p.155 declared: "All this was done in full view of large numbers of Hintza's people, to whom the disposal of the body of their chief was then left."

<sup>64</sup>This fact was suggested to me in the interview with Chief Maqoma. Neither the Chief nor his Councillors expressed any high regard for Smith.

<sup>65</sup>See Cory, Vol. III, pp.232; 237-9; 252.

<sup>66</sup>P.P., 1847, XXXVIII, (786), pp.153-9, Maitland to Gladstone, 18 September, 1846. Maitland was obviously unaware that Earl Grey had succeeded to the post of Secretary of State with the formation of Russell's first Cabinet in July, 1846.

had engaged in the war. He envisaged this area as a buffer, and proposed to fill it with semi-military villages composed of Mfengu, Khoikhoi and those Xhosa who had not participated in the war, and to support them with military posts. The similarities to D'Urban's May policy were striking; indeed, another military man<sup>67</sup> had come to the same conclusion.

Two months later Maitland recommended a more definite plan to the new Secretary of State, Earl Grey. He proposed to call the country east of Ngqika's Kop and of the Tyhumie and Keiskamma Rivers up to the White Kei, British Kaffraria and to restrict its occupation to "subject tribes under the superintendence of one or more British magistrates."<sup>68</sup> Maitland emphatically declared that no chieftainship was to be recognised, and over the Ngqikas he proposed to place a commissioner with magisterial powers. In each kraal the commissioner would appoint a headman with responsibility for its good order, and with the authority to administer customary law in minor cases. Over groups of kraals Maitland intended to appoint former chiefs or pakati. He declared: "Witchcraft, rainmaking, the legal violation of unmarried females by the chiefs and other fruitful sources of Kafir demoralisation would be forbidden, and education, industry and Christianity would be encouraged."<sup>69</sup> Once again the power of the chiefs was seen as a major threat; the destruction of that power would open the way to the penetration of western ideas. Strong military posts would support the civil authorities and would be organised to permit the despatch of a force of not less than five hundred men "to operate at once against any part of the Kafir population which may disturb the peace of the country."<sup>70</sup>

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<sup>67</sup>Sir Peregrine Maitland (1777-1854) saw extensive service in the Napoleonic Wars and later served as Lieutenant-Governor of Upper Canada and then Nova Scotia. Maitland was retired from his position at the Cape, primarily because of his advanced age, and was promoted to full general, but held no further positions, civil or military. See D.S.A.B., Vol. II, pp.431-3.

<sup>68</sup>P.P., 1847, XXXVIII, (786), pp.194-9, Maitland to Grey, 26 November, 1846.

<sup>69</sup>Ibid., p.195.

<sup>70</sup>Ibid., p.196.

Almost at the same time that Maitland penned these proposals, Grey outlined to Maitland's successor, Sir Henry Pottinger,<sup>71</sup> the form of policy he believed would settle the frontier problem. He believed the protection of an extended frontier line by reciprocal treaties had failed. In their place he envisaged the annexation of the trans-Keiskamma territories, the imposition of British authority and the development of civilizing agencies. The question was to find the best means to accomplish this. To annex the territory to the Cape or to create a separate colony would mean the imposition of a legal system upon a people whose customs were fundamentally different.<sup>72</sup>

Grey, together with Stephen and with the encouragement of Pottinger, who had recently returned from the Far East where he had earned a considerable reputation in treating with foreign potentates, came to believe that the best method for controlling the Cape's troublesome eastern neighbours would be to establish a form of protectorate under the Crown over the area, a system which owed its origins to the practice of "subsidiary alliances" in India.<sup>73</sup> In southern Africa such a policy would mean a cession by the chiefs of the independence of their country, and the acknowledgement of the Queen's protection.<sup>74</sup> Grey also saw in this scheme the prevention of the encroachment of the emigrant Boers on

<sup>71</sup>Governor and High Commissioner, 27 January, 1847 - 1 December, 1847.

<sup>72</sup>Smith's administrative experiences in Queen Adelaide Province while he governed it under martial and 'Smith's' law, led him to believe that a possible transitional *via media* between colonial law on the one hand and customary law on the other might be a code of modified tribal law. Smith's failure to attempt the introduction of such a code in British Kaffraria has been ascribed to his preoccupation with the affairs of the emigrant Boers in trans-Orangia. Nevertheless, Smith is generally viewed as the first to advocate a code of customary law in South Africa. For a discussion of this topic see Benyon, 'Basutoland and the High Commission...', pp.20-1; p.79; E.H. Brookes, The History of Native Policy in South Africa from 1830 to the Present Day, p.87; 'The Cape Frontier: A Study of Native Policy with Special Reference to the years 1847-1866', A.Y.B., 1954, I, pp.30-1.

<sup>73</sup>Du Toit, *op.cit.*, p.13.

<sup>74</sup>For a full discussion of the development of this idea at the Colonial Office, see Du Toit, *op.cit.*, pp.20-7, and Benyon, *op.cit.*, pp.59-73.

Xhosa territory, which he correctly believed to be a great cause of friction beyond the frontier. The Secretary reasoned that as these trekkers were still British subjects, the Crown could not avoid responsibility for their conduct.

Grey consequently informed Pottinger that although the British government had no wish for further territorial acquisitions in southern Africa,

sound policy and an enlightened regard for the real welfare of our uncivilized neighbours, not less than for the welfare of the colonists, require that the Kafir Tribes should no longer be left in possession of the independence they have so long enjoyed and abused. Our past forbearance they have evidently been unable to appreciate; they have clearly been insensible to the obligations they have contracted by their treaties with us, and the cupidity or the violence of their younger warriors has proved too strong for any restraints of authority or law...It is therefore requisite that a new policy, more accurately and more carefully adapted to the necessities of the case, should now be adopted. The indispensable basis of any such policy would be the surrender by the Kafir chiefs and tribes westward of the Keiskamma of their political independence and of the territory occupied by them. The territory so ceded must, in fact, become subject to British authority... <sup>75</sup>

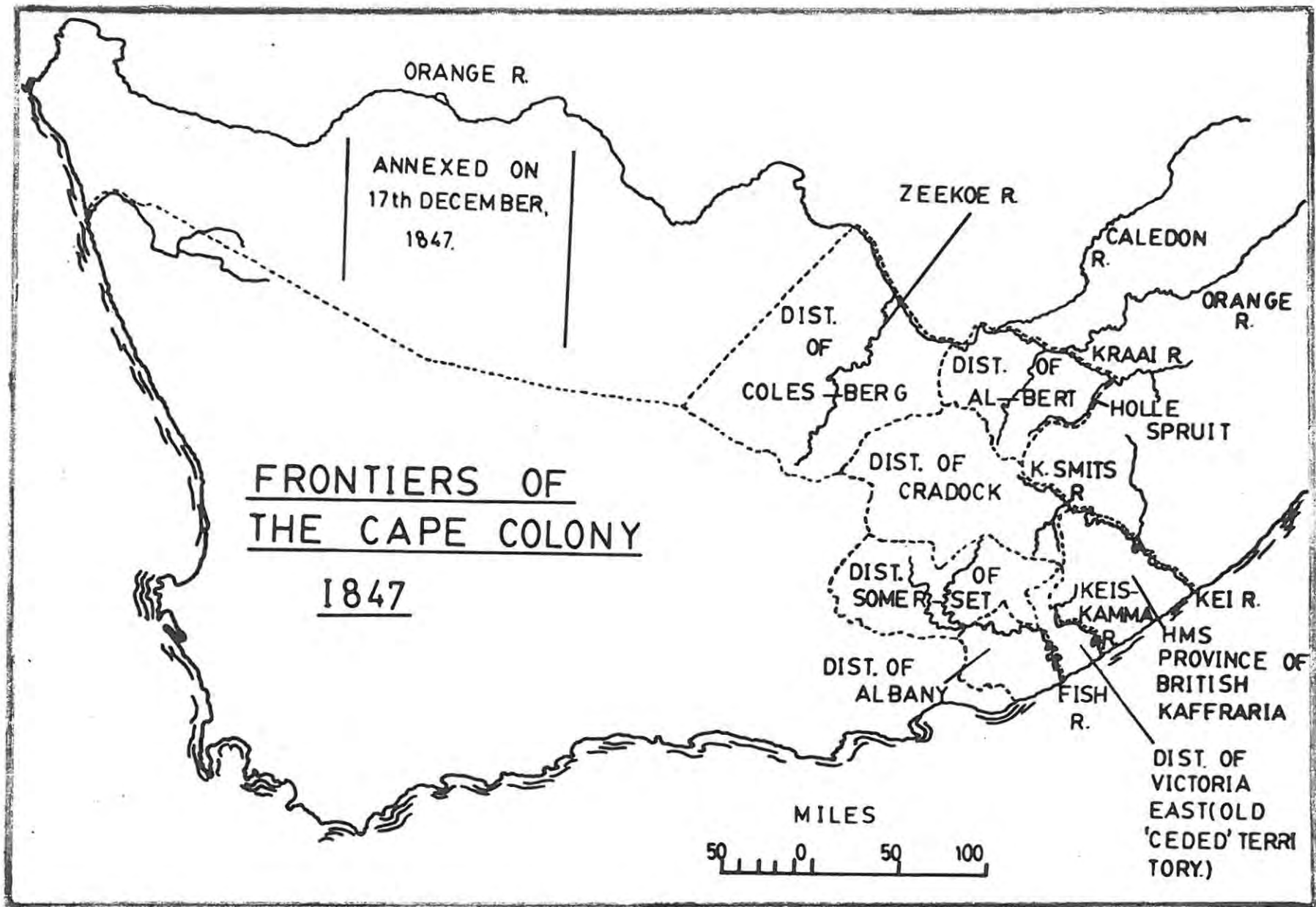
This despatch was of profound significance, and its contrast to the tone of Glenelg's December, 1835, despatch was striking. Du Toit believed <sup>76</sup> Grey never to have been influenced by the humanitarian zeal of Exeter Hall and the Clapham Sect, whose parliamentary influence had declined noticeably after Buxton lost his Weymouth seat in 1837. Yet Grey, like Glenelg, was also a Whig. He was also keenly aware of the financial drain of the Cape on the British Treasury, and hoped the annexation would lead to a final resolution of the Colony's frontier problem. He later declared to Pottinger:

The expense incurred for the defence of our colonies has been very large, nor is there any part of Her Majesty's dominions for the protection of which the

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<sup>75</sup>Grey to Pottinger, 26 November, 1846, quoted in Bell and Morrell, Select Documents on British Colonial Policy, 1830-1860, pp.502-6.

<sup>76</sup>Du Toit, op.cit., p.27.



troops and treasure of the United Kingdom have been more freely employed than for the Cape of Good Hope. <sup>77</sup>

When Pottinger arrived at the Cape in January, 1847, the war was still in progress, and he was prevented from implementing Grey's plan. By a quirk of fate, it was left to his successor, Sir Harry Smith, who was empowered with similar authority, to carry out the generally accepted act of annexation. Smith first annexed<sup>78</sup> the old ceded territory to the Colony as the district of Victoria, extended the northern boundary to the Orange and Kraai Rivers, and incorporated D'Urban's former annexation north of the Stormberg into the new province of Albert. A week later he proclaimed the territory between the Keiskamma and Kei Rivers - formerly Queen Adelaide - as British Kaffraria, and it was to be administered as a Crown Colony separately from the Cape.<sup>79</sup>

At a meeting with the chiefs on 7 January, 1848, at King Williamstown, Smith dictated a peace in which he dramatically and symbolically tore up the treaties of the Stockenstrom era, and from the gathered chiefs he extracted an oath that they would obey his laws as the Queen's representative, discontinue depredations and witchcraft, and generally fulfil<sup>80</sup> many of the provisions required of them under D'Urban's settlement. In the interval since his departure from the Colony in 1840, Smith had changed little and indeed he had won further glory by his defeat of the Sikhs at Aliwal in India in January, 1846. In Walker's inimitable phrase, Smith "sprang ashore and sounded the double and for twelve breathless months all South Africa doubled."<sup>81</sup>

In accordance with the new dispensation, British Kaffraria was to remain a separate dependency of the Crown under the direct rule of the High Commissioner, assisted by a Commandant, a Chief Commissioner

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<sup>77</sup>P.P., 1848, XLIII, (912), p.50, Grey to Pottinger, 15 June, 1847.

<sup>78</sup>Proclamation of 17 December, 1847, G.T.J., 18 December, 1847.

<sup>79</sup>British Kaffraria was only incorporated into the Cape Colony in 1866. See C.C. Saunders, 'The Annexation of the Transkeian Territories', pp.4-6, A.Y.B., 1976.

<sup>80</sup>See Du Toit, *op.cit.*, p.29.

<sup>81</sup>Walker, History of Southern Africa (1972 impression), p.229.

and three Assistant Native Commissioners. The chiefs and their tribes were given reserves with defined boundaries, and they held this land from the Queen. The chiefs were recognised as rulers of their respective tribes according to customary law, but the Commissioners were to act as appeal magistrates, with the power to set aside judgments they considered unjust or inhumane. The Chief Commissioner was to have the power of final appeal. Again, this policy had many common points of contact with the D'Urban settlement of 1835, principally the settling of the tribes on allocated land and the provision for British magistrates above customary law. These were the salient features of a policy based on the recognition that territorial segregation along the line of a river was no long-term solution and that the presence of black and white required instead a policy of regulated interaction.

Much like D'Urban's in 1835, Smith's objective in 1848 was peace and security on the frontier through control of the Xhosa and the development of Christianity and western standards. Like D'Urban, Smith realised that to achieve this the power of the chiefs would ultimately have to be eroded and superceded by that of the Commissioners.<sup>82</sup> Smith was also concerned to induce the Xhosa to follow the habits of industry and to embrace Christianity as the first steps to civilization. The origins of this policy were noted by Benyon when he declared that "the most arresting feature of Cape Native Policy - the breakdown of the traditional structure of authority in the Bantu tribe and the substitution of magisterial authority in its stead - was...a product of the Queen Adelaide venture of 1835-6."<sup>83</sup>

Although by 1848 much of D'Urban's frontier settlement seemed to have been vindicated by the march of events, it is clear that, as in 1835, the Colonial administration failed fully to understand the dynamics of Xhosa society, its customs, and social values. Thus when Smith sought to abolish the buying of wives as socially repugnant, he caused alarm among the clans.<sup>84</sup> Perhaps it is an indication of the

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<sup>82</sup>See Benyon, *op.cit.*, p.72.

<sup>83</sup>*Ibid.*, p.19.

<sup>84</sup>Du Toit, *op.cit.*, p.37.

arrogance of Twentieth Century hindsight to accuse Smith of failing to understand the dynamics of Xhosa society when his goal was to break down that society and to recast it in a western mould. But as a succession of governors had discovered, the control of a virile tribal society in accordance with western notions<sup>85</sup> was beyond the scope of their powers and resources, and as Colonel Lewis, the engineering specialist charged with colonial fortifications during the D'Urban era, declared in a letter to the former Governor dated 1 March, 1840, "the proper remedy for frontier affairs has not been discovered."<sup>86</sup> Much of the remainder of the Nineteenth Century, as Benyon declared, "was to be consumed in the experiments of British administrators to find a modus vivendi with the southward moving Bantu, who became a military and political problem of increasing dimension with every passing year."<sup>87</sup>

D'Urban had been keenly aware that his settlement of 1835 was an experiment. In his Confidential Notes<sup>88</sup> upon the Treaties of 17 September, 1835, he declared the experiment undertaken in Queen Adelaide had never been tried before, but was worth trying and should be tried fairly. Even if it succeeded he foresaw a period of "bellum in pace" for he realised that although the chiefs might be sincere in their resolve to maintain peace after the harshness of war, their power "to recall and restrain their people from rapine [was] far less than it was to excite and send them forth..."<sup>89</sup>

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<sup>85</sup>Not only governors, but champions of the aboriginal cause like Philip equated their projected measures for future relations with the trans-frontier tribes in western terms. Before the Aborigines Committee on 1 August, 1836, Philip recommended "a system of international law... on the frontiers of the country [which] would prove the most efficient and best protection that the colonists could have; the system containing for its basis the principles of justice." Philip firmly believed the Xhosa would understand and appreciate such a system. P.P., 1836, VII, (538), p.677, Q5733.

<sup>86</sup>C.A., A519, Vol. 8, pp.137-40, Col. Lewis to D'Urban, 1 March, 1840.

<sup>87</sup>Benyon, op.cit., p.59.

<sup>88</sup>C.A., A519, Vol. 27, pp.77-82 (Confidential) 'Notes upon the Treaties of the 17th September 1835 with the Native Tribes, showing the grounds upon which they have been framed, and the prospects which they may be expected to realise.' Signed B.D., Fort Willshire, 17 September, 1835.

<sup>89</sup>Ibid., p.80.

If on the other hand the experiment should fail after a fair, firm and patient trial, then it was vain in future "to talk of any other relations with these people than the bayonet's point." With his trained military eye, D'Urban highlighted the essential military logic behind his settlement when he declared that if the policy should fail,

we shall still have assumed and secured a stronger attitude by the arrangements now made, and by the immediate surveillance and magisterial power drawn around the several component bodies of the Caffre nation and the means will be ever at hand to subdue any serious resistance in detail, by the united application of civil and military authority. <sup>90</sup>

As Galbraith has asserted, D'Urban was "an able governor";<sup>91</sup> he was also a competent soldier. He was not the far-seeing and benevolent arranger of a final frontier solution that Godlonton and Chase chose to believe. Neither, as Macmillan declared, was he the muddled man of affairs who, in a moment of crisis on the frontier, threw away his plans for reform, and embraced the draconian May measures and later, the less severe but clearly militarist provisions of the September treaties. The fundamental continuity of the frontier measures of 1834, and those of 1835, has already been indicated.<sup>93</sup> Nor did D'Urban merely aggravate the problem of the frontier by his annexation as Denoon<sup>94</sup> believed, and Soga's<sup>95</sup> view of him as the weak-minded tool of colonial land hunger is too narrow a perspective. D'Urban's annexation derived from a very strong conviction that it was the only effective answer to the frontier problem in the circumstances. Questions of land apportionment were ancillary, a means of consolidating the settlement, rather than its motivating force.

Professor Penson's characterisation of D'Urban as "little daunted by party spirit within, or disapproval overseas, he preferred to risk

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<sup>90</sup>Ibid., p.79.

<sup>91</sup>Galbraith, Reluctant Empire, p.103.

<sup>92</sup>Macmillan, Bantu, Boer and Briton (1963), p.130.

<sup>93</sup>See pp.180-6.

<sup>94</sup>Denoon, Southern Africa since 1800, p.46.

<sup>95</sup>Soga, The South-Eastern Bantu, pp.186-7.

rebuke rather than endanger the colony"<sup>96</sup> with regard to his governorship of British Guiana can with equal facility be applied to his period as Governor of the Cape of Good Hope. D'Urban's ability to handle a variety of civil issues was indicated by his adherence to the schedule of retrenchment;<sup>97</sup> his careful and successful guidance of slave abolition through the uncertain seas of colonial opinion and the Legislative Council; the implementation of the Apprenticed Labourers Ordinance, and the inauguration of municipal government at the Cape. Thus D'Urban had many problems other than the frontier to consider, and this was clearly reflected in a list of despatches sent to England in the period 18 January, 1837, to 20 January, 1838.<sup>98</sup> Of the 112 despatches registered as having been sent to England in the period 18 January to 31 December, 1837, less than 25 were in connection with any aspect of the eastern frontier, whether concerned with its military fortification,<sup>99</sup> the implementation of the Stockenstrom treaties,<sup>100</sup> the applicability of the Cape of Good Hope Punishment Act,<sup>101</sup> or Stockenstrom's civil suit against Campbell.<sup>102</sup> The remainder of these despatches were concerned with the routine transmission of ordinances,<sup>103</sup> requests for pensions,<sup>104</sup> complaints from officers over the insufficiency of allowances,<sup>105</sup> requests for leave from civil servants,<sup>106</sup>

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<sup>96</sup>Penson, 'The Making of a British Crown Colony...'.

<sup>97</sup>C.A., G.H. 23/11, pp.65-85, D'Urban to Spring Rice, 15 December, 1834. In this despatch D'Urban reported fully on the measures for retrenchment which he had carried out in the colonial service.

<sup>98</sup>C.A., A519, Vol. 29, pp.79-89, 'List of despatches sent to England 1837/8.'

<sup>99</sup>Ibid., to Glenelg, no.36, 20 June, 1837.

<sup>100</sup>Ibid., to Glenelg, no.37, 24 June, 1837.

<sup>101</sup>Ibid., to Glenelg, no.45, 25 July, 1837.

<sup>102</sup>Ibid., to Glenelg, no.55, 11 September, 1837.

<sup>103</sup>Ibid., to Glenelg, no.14, 14 February, 1837.

<sup>104</sup>Ibid., to Glenelg, no.19, 4 March, 1837.

<sup>105</sup>Ibid., to Glenelg, no.76, 1 November, 1837.

<sup>106</sup>Ibid., to Glenelg, no.35, 13 June, 1837.

petitions for a variety of things, such as the Albany Catholics' for a priest at Grahamstown,<sup>107</sup> and the transmission of the Blue Book and report for 1836.<sup>108</sup>

D'Urban's administration was sorely pressed by the stringent financial restrictions placed upon it by the British Treasury, and it was a period of great difficulty for the colonial service upon which the effectiveness of all the Governor's measures ultimately depended. Retrenchment of the service was accompanied by an increase in its work load - first, the necessity to implement the Apprenticed Labourers Ordinance, followed almost immediately by the war of 1834-5. In the frontier districts the service was further burdened with the necessity of having to co-ordinate its activities, first with Smith's implementation of the D'Urban settlement, and later with Stockenstrom's treaty system, the latter when the Trek was depriving the service of some of its most able members, like Retief.

D'Urban's imaginative scheme for a frontier settlement was bankrupted as much by the disfavour that a succession of piecemeal and often contrary frontier measures implemented by a succession of governors had engendered among British humanitarians, as by its own uncertain and experimental basis. But as later events were to prove, it was an experiment the British government was later persuaded to revive as the only possible solution after the collapse of the treaty system. That D'Urban was prepared to implement a treaty system in accordance with Stanley's despatch of 27 November, 1833, was clearly indicated by the successful completion of negotiations for a treaty of mutual amity with the Griqua chief, Waterboer, on 11 December, 1834, ten days before the Xhosa invasion changed the scope of D'Urban's policy. The treaty survived Smith's impassioned declaration that there were to be 'no more treaties' and only lapsed with Waterboer's death in 1852.

Thus D'Urban's ultimate failure was not due to any inability on his part, and the failure was restricted to his measures for the pacification of the eastern frontier. His deficiency in this sphere was in part the result of the very human sense of helplessness and

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<sup>107</sup> Ibid., to Glenelg, no.81, 18 November, 1837.

<sup>108</sup> Ibid., to Glenelg, no.112, 31 December, 1837.

frustration in face of the twin pressures of strict financial control and a seemingly perverse humanitarian influence at the centre of British power which ultimately blinded him to the limitations of his role as a servant of the Crown. To this was inextricably and disastrously linked a military professionalism which caused him to be more violent in his description of his frontier policies than in fact they were. This professionalism also tainted his relationship with the Secretary of State whose criticism he took as a personal insult to his military honour and helped fuel his vitriolic despatch of 9 June, 1836. D'Urban was indiscreet in allowing his profession of arms to colour matters of a civil nature as a frontier settlement necessarily meant after the shooting stopped, and as all contact with Glenelg also meant. The fault lay as much in the practice of appointing governors to both civil and military control at the Cape, as it did in D'Urban's acceptance of a question of policy as a personal affront. His capable administration of other aspects of the Colony, devoid of the complexities and ramifications of his frontier settlement, clearly indicated that D'Urban's governorship at the Cape was capable, conscientious and sincere. In conclusion, it seems fitting to quote from an address made by D'Urban shortly before he left the Colony in 1846. He declared:

For Four Years I was Governor of this Colony, -- for Eight Years afterwards I lived among its people as an humble Individual, -- and I thank God, that after all, they thought of me as within. <sup>109</sup>

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<sup>109</sup>C.L., MSS 6809, p.16, transcription by Una Long from the MSS.

## APPENDIX 1

THE ORIGINS OF THE SECRETARYSHIP OF STATE FOR WAR AND THE COLONIES

The modern origins of this Secretaryship lay initially in the re-organisation of 1782<sup>1</sup> to facilitate the administration of the remaining colonies of the old empire after the American War of Independence (1776-83). As a result of this re-organisation the ancient office of Secretary of State - traditionally shared by two Secretaries who, in agreement and with the consent of the Crown, each assumed responsibility for defined affairs - was divided into 'Foreign' and 'Home' departments.<sup>2</sup> Responsibility for war, the colonies and internal affairs within the Kingdom came under the purview of the Home Secretary.

In 1794 Pitt appointed a third Secretary in order to allow Henry Dundas, Home Secretary since 1791, greater freedom in conducting the war against France and her allies, and in order to facilitate the entry of the Whigs into a wartime ministry. The necessary political bargaining led to the cession of the portfolio for the colonies and their patronage, as well as home affairs, to the Whigs. Dundas retained the portfolio of war, amongst several others.<sup>3</sup>

As a result of the complicated political steps Pitt's successor, Addington, was necessarily forced to perform in order to construct his ministry, responsibility for colonial affairs was returned to the Secretary of State for War in 1801.<sup>4</sup> But the move entailed little more than the transfer of traditional responsibilities from one Secretary of State to another, and this was clearly emphasised by the fact that not a single person, clerk or otherwise, moved from the Home Office to the War Office.<sup>5</sup> The portfolios of war and the colonies were only separated in 1854.

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<sup>1</sup>Young, Colonial Office, p.8.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid., p.9.

<sup>4</sup>Ibid., pp. 10-11.

<sup>5</sup>Ibid., p. 12.

## APPENDIX 2

SECRETARIES OF STATE FOR WAR AND THE COLONIES, 1833-9.

The incumbent of the office of Secretary of State of War and the Colonies changed four times during D'Urban's four years as Governor of the Cape of Good Hope:

March, 1833 - June, 1834	:	E.G. Stanley, later Lord Stanley and Earl of Derby.	Whig.
July, 1834 - November, 1834	:	T. Spring Rice	Whig.
December, 1834 - March, 1835	:	Earl of Aberdeen	Tory.
April, 1835 February, 1839.	:	Charles Grant, Lord Glenelg	Whig.

## APPENDIX 3

KING, PARLIAMENT AND FINANCIAL CONTROL

Since the Fourteenth Century at least the English Parliament had been a decisive element in the control of the purse strings of public revenue, but from 1660, and with greater relevance to the period under review, from 1780, the House of Commons increased its authority at the expense of the Crown, although not to its peril, as the balance was maintained by the growth of the principle of cabinet solidarity and the authority of the Prime Minister in the same period.<sup>1</sup>

Between 1660-89 the King was dependant on Parliament for only a part of his revenue, and he was not accountable for any of it. From the ordinary revenue he was expected to carry the ordinary costs of government together with those of the army and navy in times of peace. But he could supplement that revenue by borrowing, an expedient over which Parliament had no control.

After the Peace of Ryswick in 1697, Parliament assumed responsibility for naval and military expenditure, and the money so voted came under parliamentary control.<sup>2</sup> The King retained responsibility for civil government, and public expenditure thus came to be controlled partly by Parliament and partly by the King.

During William III's reign, moreover, Parliament attempted to control the use to which money raised by taxes was put by stating in the appropriation bill the particular purpose for which the money collected was to be used, and by trying to ensure that it was used for this purpose.<sup>3</sup> This state of affairs lasted until 1787 when the system of appropriation was replaced by the simple system of appropriating a certain amount for each object of expenditure. In effect, this was the establishment of the Consolidated Fund. Parliamentary control in the Eighteenth Century was also facilitated by the growth of the practice - originating in William III's reign - of presenting the Commons with annual estimates showing how the money

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<sup>1</sup>Betty Kemp, King and Commons, 1660-1832, p. 110.

<sup>2</sup>Ibid., p. 73.

<sup>3</sup>Ibid., p. 72.

asked for was to be spent. Also in William's reign the power of the Crown to borrow was drastically reduced by a number of factors, such as the establishment of the National Debt, and a system authorising the King to borrow fixed amounts on the security of taxes granted by Parliament.

Crown and Parliament continued to share control of public expenditure until the early Nineteenth Century when, from 1810, deficiencies in departmental funds had to be made up by special parliamentary grants. In 1802 and 1816, payments to members of the royal family, some previously on the Civil List, were made from the Consolidated Fund. Finally in 1830 a Select Committee of the House of Commons established the principle that "the Civil List should be applied only to such expenses as affect the dignity and state of the Crown and the personal comfort of Their Majesties," and recommended that the expenses of civil government be transferred to the Consolidated Fund where they could be controlled.<sup>4</sup> The recommendation was accepted and the Civil List Act of 1831 relieved the King of his last great public charge - ministerial salaries and the expenses of government departments. In practice therefore, Parliament controlled not only the methods of taxation, but also the expenditure of public funds from the early 1830's.

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<sup>4</sup>Ibid., p. 73.

## APPENDIX 4

HUMANATARIANISM IN ENGLAND

The fervour which the humanitarians displayed for the cause of negro slaves and the rights of aborigines in the colonies was strongly at variance with their lack of concern for the appalling social conditions in early Nineteenth Century Britain, literally on the doorstep of Exeter Hall, where the nation's evangelical and missionary societies held their annual meetings. In England it was only in 1842 that the Coal Mines Act<sup>1</sup> was passed which forbade the employment underground of women, and boys under the age of 10, and only in 1844 did the Factory Act<sup>2</sup> fix a maximum 12 hour day for women, and six and a half hours for children under 13.

The Irish member of Parliament, Daniel O'Connell, highlighted the squalor of the peasantry in his own country when he delivered the famous lines:

Oh! I wish we were blacks! If the Irish people were but blacks, we should have the honourable member for Weymouth [T.F. Buxton] coming down as large as life supported by all 'the friends of humanity' in the back rows, to advocate their cause.<sup>3</sup>

Charles Dickens, perhaps the greatest contemporary social commentator of Victorian England, succinctly characterised the kind of philanthropy which ignored the plight of the domestic labourers in Britain in preference to coloured peoples overseas as "telescopic philanthropy".<sup>4</sup> In Bleak House he created the character of the philanthropically inclined Mrs Jellyby. At the expense of her large family she devoted "herself entirely to the public ... and is at present (until something else attracts her) devoted to the subject of Africa; with a view to be the general cultivation of the coffee berry - and the natives - and the settlement, on the banks of the African rivers, of our super-abundant population."<sup>5</sup> She hoped to have

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<sup>1</sup>V & VI. Vict., cap. XCIX, A.R. 1842.

<sup>2</sup>VII & VIII. Vict., cap. XV, A.R. 1844.

<sup>3</sup>Charles Buxton (Ed.), Memoirs of Sir Thomas Fowell Buxton, p. 325.

<sup>4</sup>Charles Dickens, Bleak House, pp. 34-45.

<sup>5</sup>Ibid., p. 34.

"from 150 to 200 healthy families cultivating coffee and educating the natives of Borrioboola-Gha, on the left bank of the Niger."<sup>6</sup>

Dickens drew his facts from the abortive attempt of Buxton's African Civilization Society and the Niger Association in 1841 to open the upper Niger river to commercial penetration, establish a model farm at Borrioboola Gha for the spread of Christian civilization, and to imbue a sense of legitimate commerce among the natives instead of the traditional slave trading.<sup>7</sup>

Howse defended this 'telescopic philanthropy' on the grounds that Wilberforce and the Clapham Sect, as members of the ruling aristocratic elite, saw the problem of poverty in England as distinct from the problems of slavery and "not as a problem to be solved, but as a situation calling for their sympathy. If men were victimized by a social system, they would not assault the system, they would do their best to minister to the victims."<sup>8</sup> The Clapham Sect saw "only infinite peril if the poor themselves began in desperation to combine for their own deliverance."<sup>9</sup> Thus the Sect's view of Britain's domestic inadequacies was guided by the traditional views and values of their class which rarely, if ever, questioned the structure of society which made some rich and powerful, and others poor and dependent.

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<sup>6</sup>Ibid., p. 37.

<sup>7</sup>See Charles Buxton (Ed.), Memoirs, pp. 529-51.

<sup>8</sup>Howse, Clapham Sect., p. 124.

<sup>9</sup>Ibid., p. 127.

## APPENDIX 5

ANALYSIS OF COLONIAL ADMINISTRATION IN THE DISTRICTS

Before 1st July, 1834				After 1st July, 1834		
District	Civil Commissioner	Resident Magistrate	Justice of the Peace	Civil Commissioner	Resident Magistrate	Justice of the Peace
Cape	1	2 Cape Town Simonstown	-	1 _____ combined		2 Saldanha Simonstown
Stellenbosch	1	1 Swellendam	1 Paarl	1 _____ combined		1 Paarl
Worcester	1	2 Clanwilliam Worcester	1 Tulbagh	1 _____ combined 1 Ass't Civil Commissioner and Resident Magistrate at Worcester.		1 Tulbagh
Swellendam	1	1 Swellendam	1 Caledon	1 _____ combined		2 Caledon S. Sebastian
Uitenhage & George	1	2 Uitenhage George	1 Port Elizabeth	1 _____ combined 1 Ass't Civil Commissioner and Resident Magistrate at George 1 Resident Magistrate at Pletten- berg.		1 Port Elizabeth
Albany & Somerset	1	2 Grahamstown Somerset East	2 Bathurst Cradock	1 _____ combined 1 Ass't Civil Commissioner and Resident Magistrate at Somerset East.		2 Bathurst Cradock
Graaff Reinet & Beaufort	1	2 Beaufort Graaff- Reinet	-	1 _____ combined 1 Ass't Civil Commissioner and Resident Magistrate at Beaufort		-
TOTAL	7	12	6	(a) 7 Civil Commissioners combined with post of Resident Magis- trate; 1 Resident Magistrate (b) 4 Assistant Civil Commisioners combined with post of Resident Magistrate		9

Total of key Civil Government :  
functionaries in the Districts

25

21

Based upon the information in C.A., G.H. 1/98, Stanley to D'Urban,  
31 December, 1833.

## APPENDIX 6

D'URBAN'S COLONIAL LEGISLATION

3 June, 1834

- No. 1 Ordinance for altering and amending an Ordinance entitled "Ordinance of His Honour the Lieut.-Governor in Council, for making Regulations for the Conduct to Proceedings of the Masters of Crews on Merchant Vessels arriving in the Ports of this Colony", dated 27th day of November, 1827. (Repealed by Ordinance 4 of 1844).

4 June, 1834

- No. 2 Ordinance for altering and amending an Ordinance entitled "Ordinance of His Excellency the Governor in Council, for fixing the Quantities of Wine and other Liquors allowed to be sold under Licence, and the Stamp Duties to be paid for Licences; and for regulating certain matters in regard to the making and selling of such Liquors", dated the 27th day of June, 1832. (Repealed by Ordinance 29 of 1846).

11 June, 1834

- No. 3 Ordinance for altering and amending the Ordinances entitled respectively, "Ordinance of His Honour the Lieut.-Governor in Council, for the better regulation of the Post Office in the Colony of the Cape of Good Hope", dated the 9th day of October, 1826, and "Ordinance of His Excellency the Governor in Council, for altering and amending the Ordinance No. 25, entitled 'An Ordinance for the better regulation of the Post Office in the Colony of the Cape of Good Hope', dated the 9th day of February, 1829." (Repealed by Ordinance 1 of 1846).

31 July, 1834

- No. 4 Ordinance for erecting, constituting and establishing Police Courts to be holden in Cape Town and Simon's Town respectively and for defining the Duties and Jurisdiction of the Judge and Superintendent of Police of Cape Town, and of the Justice of the Peace of Simon's Town respectively. (As to Simon's Town repealed by Ordinance 14 of 1847; wholly repealed by Act 11 of 1860).

8 September, 1834

An Ordinance for the better suppression of Vagrancy in the Colony. (Disallowed by the Crown).

3 December, 1834

- No. 5 Ordinance for applying a sum not exceeding £40,590 1s 8½d to the Contingent Services of the Year 1835.

3 December, 1834

- No. 6 Ordinance for continuing the Provisions of an Ordinance bearing date the 14th day of February, 1833, entitled "An Ordinance for enabling certain persons having respectively the just, lawful, and undisputed right to certain Lands and Houses to procure the same to be enregistered as the Property in the Land Register." (Lapsed. See Ordinance 9 of 1853 and Act 4 of 1860).

3 December, 1834

- No. 7 Ordinance for regulating the Trade in Gunpowder within the Colony. (Finally repealed by Act 25 of 1934).

10 December, 1834

- No. 8 Ordinance to abolish the present Rates of Dues payable at the public Wharfs at Cape Town and Simon's Town, and to substitute others in lieu thereof. (Repealed by Ordinance 6 of 1851).

10 December, 1834

- No. 9 Ordinance for discontinuing the Tithe Duty and altering the Market Duties on Ordinary wines brought into Cape Town and Simon's Town. (All produce not passing through Markets relieved from any dues by Ordinance 20 of 1847. As to Markets, see Ordinance 9 of 1836, and Ordinance 6 of 1837, and for Cape Town, Ordinance 1 of 1840).

5 January, 1835

- No. 1 Ordinance for giving due effect to the Provisions of an Act of Parliament, passed in the third and fourth years of the reign of His Majesty King William the Fourth, entitled "An Act for the abolition of Slavery throughout the British Colonies, for promoting the Industry of the manumitted slaves, and for compensating the persons hitherto entitled to the services of such slaves," and dated the 28th day of August, 1833. (Ceased to be in operation after December, 1838, the date of final emancipation).

26 May, 1836

- No. 1 Ordinance for continuing and extending the Provisions of an Ordinance bearing date 14th day of February, 1833, entitled "An Ordinance for enabling certain persons having respectively the just, lawful, and undisputed right to certain Lands and Houses to procure the same to be enregistered as their Property in the Land Register." (Lapsed. See Ordinance 9 of 1853, and Act 4 of 1860).

26 May, 1836

- No. 2 Ordinance for rendering valid and effectual, all such Acts, Transfers, Mortgage, and other Deeds as have been made and passed in the Register Office, between the 16th day of October, 1835 and the 31st day of March, 1836, and which have been certified and enregistered before and subscribed by Jan Godlieb Brink, Esq., and William John Mackrill, Esq., and to authorize and empower the Governor to appoint an Acting Register of Deeds.

26 May, 1836

- No. 3 Ordinance for appointing and authorizing certain persons to be Commissioners and to act as Guardians to Emigrants, being minors, sent to this Colony from the United Kingdom by a Society known as the Children's Friends Society. (Lapsed through the dissolution of the Society).

26 May, 1836

- No. 4 Ordinance to indemnify the Special Justices and other persons in respect of acts done under and by virtue of certain rules bearing date the 15th January, 1835, and a certain Proclamation bearing date the 1st May, 1835, made and published by the Provisional Government, and to make those acts valid. (Lapsed, as the Ordinance had reference only to proceedings under the Acts for the Abolition of Slavery).

1 June, 1836

- No. 5 Ordinance for defining the limits of and securing from injury the Cape Flats and Downs. (Sections 3 and 4 repealed by Ordinance 28 of 1846).

27 June, 1836

- No. 6 Ordinance for incorporating and establishing the South African Association for the Administration and Settlement of Estates. (Repealed by Act 9 of 1855).

27 June, 1836

- No. 7 Ordinance for explaining and extending the powers of Trustees appointed for the Management of a Mercantile Establishment at Port Beaufort. (Repealed by Act 14 of 1928).

25 July, 1836

- No. 8 Ordinance for providing for the better and more effectual management of the Public Library in Cape Town. (Repealed by Act 33 of 1893).

15 August, 1836

- No. 9 Ordinance for the creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded. (Repealed by Act 25 of 1934).

29 August, 1836

- No. 10 Ordinance to indemnify the Governor of the Colony and all persons acting under his authority against certain acts done during the existence of Martial Law in certain parts of the Colony. (Repealed by Act 25 of 1934).

29 September, 1836

- No. 11 Ordinance for rendering valid acts done and duties performed by persons appointed to act as and for certain Magistrates, and to empower the Governor to appoint Assistant Magistrates. (Repealed by Act 20 of 1856, except in so far as it enacted that certain acts done previously to its passing remained legal, valid and effectual).

15 December, 1836

- No. 12 Ordinance for altering and amending the Laws and Regulations relating to Medical Practitioners, Apothecaries, Chemists and Druggists in the Colony. (Ceased to have legal effect because it was not confirmed by the Crown within three years of its enactment).

15 December, 1836

- No. 13 Ordinance for applying a sum not exceeding £128,628 15s 5<sup>7</sup>/<sub>8</sub>d to the service of the year 1837.

31 December, 1836

- No. 14 Ordinance for abating the Nuisance occasioned by Dogs roaming at large in and about Cape Town. (Repealed by Act 25 of 1934).

6 February, 1837

- No. 1 Ordinance for erecting certain Resident Magistrates' Courts within the Eastern Division of this Colony, and for defining the Jurisdiction thereof. (Repealed by Act 20 of 1856).

21 June, 1837

- No. 2 Ordinance for the more effectual prevention of crimes against Life and Property within the Colony. (Repealed by Act 31 of 1917).

28 June, 1837

- No. 3 Ordinance for altering the Ordinance No. 105, entitled "Ordinance of His Excellency the Governor in Council for providing for the due Administration and Management of the Estates and Property of Minors, Lunatics, and persons absent from the Colony, and for the proper care of the persons of minors and Lunatics", and dated the 5th day of July, 1833. (Repealed by Act 1 of 1874).

28 August, 1837

- No. 4 Ordinance for the better observance of the Lord's Day in this Colony. (Repealed by Ordinance 1 of 1838).

23 August, 1837

- No. 5 Ordinance for appointing Assistant Field-Cornets within the Colony. (Repealed by Act 16 of 1914).

23 August, 1837

- No. 6 Ordinance to authorize the Governor of the Colony, by and with the advice of the Executive Council, to establish Markets and provide regulations for the same in villages or other places not being Municipalities. (See Act 33 of 1895 and Act 19 of 1896).

6 December, 1837

- No. 7 Ordinance for declaring at what stage of the Procedure Criminal Actions and Suits shall be deemed to be pending in the Supreme Court and the Circuit Courts of the Colony. (Repealed by Act 31 of 1917).

8 November, 1837

- No. 8 Ordinance for the releasing certain property bequeathed to Esther Andrietta Constantia de Roos, from the entail of Fidei Commis.

8 November, 1837

- No. 9 Ordinance for altering and amending the Ordinance entitled "An Ordinance for altering and amending the Ordinances entitled respectively 'Ordinance of His Honour the Lieut.-Governor in Council, for the better regulation of the Post Office in the Colony of the Cape of Good Hope', dated the 9th day of October, 1826, - and Ordinance of His Excellency the Governor in Council for altering and amending the Ordinance No. 25, entitled 'An Ordinance for the better regulation of the Post office in the Colony of the Cape of Good Hope', dated the 9th day of February, 1829", bearing date the 11th day of June, 1834. (Repealed in the repeal of Ordinances No. 25, No. 56 and No. 3 of 1844, by Ordinance 1 of 1846).

29 November, 1837

- No. 10 Ordinance for limiting the duration of the Powers granted by the Ordinance No. 6, of 1836, entitled "Ordinance for incorporating and establishing the South African Association for the Administration and Settlement of Estates", and dated the 27th day of June, 1836, to the said Association. (Repealed by Act 9 of 1855).

21 December, 1837

- No. 11 Ordinance for establishing, regulating and providing for the South African College. (Repealed by Act 15 of 1878).

21 December, 1837

- No. 12 Ordinance for continuing the Toll at Kaayman's Gat, until the First Day of February, 1840. (Expired).

28 December, 1837

- No. 13 Ordinance for applying a sum not exceeding £144,038 7s 2d to the service of the year 1838.

Extracted from Statutes of the Cape of Good Hope, pp. 351-435.

## APPENDIX 7

P.P., 1835, XXXIX, (252), pp.113-4, Circular Memorandum to all Civil Commissioners, 25 July, 1834, Enclosure No.8 in D'Urban to Spring Rice, 28 October, 1834.

(Circular.)

## MEMORANDUM.

With reference to the proclamation herewith enclosed, promulgating His Majesty's disallowance of the ordinance, No. 99, of the 6th June 1833, and the proclamation of 1797, therein referred to, the civil commissioners respectively are requested to observe and duly to instruct their field cornets and all concerned, that under and in consequence of the repeal and disallowance in question, the laws and provisions in respect of and against aggressions by the different tribes on the boundaries of the colony against the persons, property or provisions of the inhabitants in their respective districts, and then remaining in force within the colony, stand committed in charge to and within them respectively, under and according to the 28th, 29th and 30th articles of the ordinance for the administration of the country districts, they having been heretofore directed, charged with, and empowered to perform on such occasions all such duties as had been theretofore performed by the landdrosts, that in such due performance of duties, as far as in them may lie, no violence be used against the native tribes, except, and then only by commandos called out by their own orders respectively, as a measure of defence, unavoidably, without delay, resorted to under emergencies not permitting the delay of awaiting the commands of Government, against Caffres, Bosjesmen, or other indigenous inhabitants, when each individual may be called upon to defend himself and his property. That whenever it shall have been found unavoidable to call out any such commando, the field cornets respectively are to attend to and strictly observe the classification directed and pointed out by the district ordinance with regard to the age and condition of the persons to be prepared on such calls for personal service; while every field cornet, without any specific order thereon from the civil commissioners, will remain as heretofore warranted, on his own authority, to summon and call out the necessary number of inhabitants armed, and to require and have the aid of the next field cornets for following after and securing such deserters, runaway slaves, or other vagabonds, as he may have had information of then being within his district.

Art. 28. The different tribes on the frontier of the colony should always be so dealt with that they can never have any just cause for aggression against the persons, property or possessions of the inhabitants; and where it shall be necessary to repel force by force, then the landdrost must take care that no excess be committed.

Art. 29. In no case, except when unavoidably, and without delay, measures of defence must be resorted to against Caffres, Bosjesmen, or other indigenous tribes, and when each individual may be called upon to defend himself and his property; in no other instances but such as these, shall any violence be used towards these people, nor in any other way than by commandos, called out by the order of the landdrost; to do which, in all cases not permitting the delay of awaiting the commands of Government, he is hereby authorized; and then the landdrost shall exclusively direct the measures which, according to circumstances, he shall deem expedient.

Art. 30. In order to preserve peace with the indigenous belonging to a regular chief, should any one or more of them molest the person or the property of any of the inhabitants, and the landdrost having complained of the same to the chief and required satisfaction, and the chief refusing to attend to it, then the Government, on the representation of the landdrost, will take such measures as the interests of the colony shall require.

Art. 252. No field cornet shall, on his own authority, summon the inhabitants to meet armed, without special orders from the landdrost, except, however, when the field cornet shall have received information that a number of deserters, runaway slaves, or other vagabonds are in his district, when he shall not only be authorized, but obliged, immediately to call out the necessary number of men, in order, as soon as possible, to follow and secure such persons.

Art. 253. In such case the field cornet shall immediately report the same to the landdrost of the district, and acquaint also the next field cornets with the particulars, who shall be obliged, whenever required, to assist him with the armed men of their own districts. In the Cape district the field cornets stand, till further orders, in the same relation with respect to the Attorney-general as in the other districts they do with respect to the landdrost of their respective districts.

Government House, Cape of Good Hope,  
25 July 1834.

(signed) B. D'Urban.

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## BIBLIOGRAPHY

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II MANUSCRIPT SOURCESA. Cape Archives

1. H. 13: Letters Patent granted to Sir Benjamin D'Urban to be Vice-Admiral of the Cape of Good Hope.
2. H. 14: Writ of Privy Seal appointing Sir Benjamin D'Urban Governor of the Cape of Good Hope.
3. Accession 519, D'Urban Collection.

<u>Vol. No.</u>	<u>Description</u>	<u>Period</u>
1	Letters Received	1823, May 1 - 1835, May 16
2	Ibid.	1835, May 18 - 1835, Sept. 22
3	Ibid.	1835, Sept. 23 - 1835, Dec. 30
4	Ibid.	1836, Jan. 1 - 1836, Aug. 18
5	Ibid.	1836, Aug. 18 - 1836, Dec. 16
6	Ibid.	1837, Jan. 6 - 1837, July 14
7	Ibid.	1837, July 15 - 1837, Dec. 29
8	Ibid.	1838, Jan. 12 - 1840, Dec. 5
9	Ibid.	1841, March 21 - 1847, Oct. 14
10	Copies of Despatches to Secretary of State	1834, April 21 - 1837, March 15
11	Ibid.	1837, June 20 - 1837, July 29
12	Ibid.	1837, July 29 - 1837, Aug. 19
13	Ibid.	1837, Oct. 9
14	Ibid.	1837, Oct. 11 - 1838, Jan. 20
15	Despatches to Lieutenant-Governor	1836, Aug. 8 - 1837, March 18
16	Ibid.	1837, March 18 - 1837, Dec. 16
17	Frontier Correspondence	1835, July 4 - 1835, Dec. 11
18	Letters despatched	1828, Sept. 27 - 1836, Aug. 16
19	Ibid.	1836, Sept. 19 - 1846, Nov. 10
20	Letter Book (Parts)	1834, Feb. 1 - 1835, Jan. 26
	Ibid.	1834, May 12 - 1835, Nov. 12
	Ibid.	1835, Jan. 7 - 1836, June 21
	Ibid.	1835, Jan. 5 - 1836, June 8
21	Ibid	1835, Feb. 12 - 1835, July 31
	Ibid	1835, March 6 - 1836, Jan. 6
22	Letter Book: Colonial Civil, Private.	1835, Oct. 2 - 1838, Feb. 10
23	Letter Book : Military	1835, Jan. 23 - 1835, Sept. 30
24	Ibid.	1835, Sept. 29 - 1836, March 11
25	Ibid.	1836, March 17 - 1836, Sept. 16
26	Ibid.	1836, Sept. 23 - 1837, Oct. 20
	Letter Book: Miscellaneous	1838, Jan. 14 - 1838, Dec. 11
	Ibid.	1836, July. 3 - 1836, Nov. 9
	Commander of the Forces Despatch Book.	1835, Jan. 14 - 1835, July 20
27	Notes and Memoranda	1834, Oct. 25 - 1837, June 26
28	Ibid.	1837, July 1 - 1846, July 28
	Ibid.	undated

29	Military Returns and Statements	1835, March 8	-	1840, May 18
	Miscellaneous documents	1832, June 16	-	1840, June 27
30	General Orders	1834, Jan. 16	-	1834, Dec. 24
31	Ibid.	1835, Jan. 16	-	1835, April 13
32	Ibid.	1835, April 15	-	1835, July 6
33	Ibid.	1835, July 9	-	1835, Nov. 30
34	Ibid.	1835, Dec. 3	-	1836, Dec. 26
35	Ibid.	1836, Dec. 28	-	1838, Jan. 19
36	Newspaper Cuttings	1835, Jan. 30	-	1854, June 26
37	<u>Graham's Town Journal</u>	1835, Jan. 2	-	1836, April 28
38	<u>Ibid.</u>	1836, May 5	-	1848, Jan. 22
	<u>Government Gazette</u>	1835, Nov. 27	-	1847, Dec. 15
	<u>De Zuid-Afrikaan</u>	1836, March 25	-	1847, Dec. 30
	<u>South African Commercial Advertiser</u>	1840, July 15	-	1847, Dec. 29
	<u>Cape Town Mail</u>	1841, March 27	-	1846, May 30
	<u>Cape Frontier Times</u>	1846, Feb. 17	-	1847, Dec. 21

4. Minutes of the Executive Council of the Cape of Good Hope.

<u>Vol. No.</u>	<u>Period</u>
1	(Only for the period) 1834, Jan. 16 - 1837, Dec. 16

5. Minutes of the Legislative Council of the Cape of Good Hope.

<u>Vol. No.</u>	<u>Period</u>
1	1834, Jan. 16 - 1836, Dec. 31
2	1837, Feb. 6 - 1845, May 14
7	Appendix Various
8	Appendix Ibid.

6. Archives of the Governor of the Cape of Good Hope.

Papers despatched to the Secretary of State, London.

<u>Vol. No.</u>	<u>Description</u>	<u>Period</u>
23/11	D'Urban to Spring Rice re Reduction of Establishments	1834, Dec. 15
28/12(1)	Enclosures to Despatches (1) 'Copy of a Memorandum left by Lt. Col. Somerset for Lt. Col. England's guidance.'	1833 - 1838  1832, July

Papers despatched to the Governor, Cape of Good Hope.

<u>Vol. No.</u>	<u>Description</u>	<u>Period</u>
1/96	Instructions to D'Urban	1833, Nov. 8
1/97	Stanley to D'Urban re Abolition of Commando System Enclosures: (1) Somerset's 'Remarks on the Military Defence of the Eastern Frontier of the Cape of Good Hope showing the necessity of an increased [sic] Mounted Force for its protection and efficient security.' (2) Cole to Hay re Somerset's Memorandum of March, 1833.	1833, March 1833, Nov. 15
1/98	Stanley to D'Urban directing Reduction of Establishments.	1833, Dec. 31
1/100	Spring Rice to D'Urban	1834, July 4
1/105	Grant to D'Urban re Apprenticed Labourers Ordinance.	1835, April 30
1/107	Glenelg to D'Urban	1835, Dec. 26
1/108	Glenelg to Stockenstrom	1836, Feb. 5
1/114	Glenelg to D'Urban re latter's dismissal.	1837, May 1

7. Microfilms of Official Documents in the Public Record Office, London.  
(Cape Archives Reference ZP)

<u>P.R.O. Ref.No.</u>	<u>Z. Ref.No.</u>	<u>Description</u>	<u>Period</u>
154	1/1/82	Despatches	1834
165		Papers relating to the War.	1835
166-167		Despatches; D'Urban	1836
167		Despatches; Stockenstrom	1836

B. Cory Library

MSS 6768-6809	<u>D'Urban Collection</u>	This is a set of miscellaneous newspaper cuttings, letters, pamphlets and booklets which all have some connection with D'Urban and his Governorship.
MS 2033	<u>The Correspondence of Sir B. D'Urban.</u> (copied by G. McCall Theal from D'Urban's original documents, presented to the Union Government by his grandson, W.S.M. D'Urban in 1911).	Vol.1. Documents bearing upon the Emigration of the Dutch Farmers from the Eastern Districts of the Cape Colony. Vol.2. Province of Queen Adelaide.

C. Albany Museum Archives

SM 1177	The Journal and Letter Book of J.M. Bowker	1835, May 21 - 1839, April 30
SMD 861	The Diary and Letter Book of J.M. Bowker	1836, March 1 - 1839, May 17
SM 5325	D'Urban to Bowker	1836, July 10
SM 1181C	D'Urban to Bowker	1837, Aug. 11

III PRINTED PRIMARY SOURCESA. British Parliamentary Papers.

This list is divided into four columns which indicate (1) the date of the Paper; (2) the House of Commons or House of Lords volume number; (3) the Sessional, or if indicated by a square bracket, the Command Number of the Paper; (4) a brief description of the contents of the Paper. (See Adam, M.I., Ewing, J., and Munro, J., Guide to the Principal Parliamentary Papers relating to the Dominions, 1812-1911, pp. v-viii, for a distinction between Sessional and Command Papers).

1827	XXI	282	Reports of the Commissioners of Inquiry re the Government and Finances of the Cape.
1835	XXXIX	50	Papers re condition and treatment of Native Inhabitants, Part I.
1835	XXXIX	252	Papers re condition and treatment of Native Inhabitants, Part II. (D'Urban's personal and annotated copy.)
1836	XXXIX	279	Papers re Kaffir War and death of Hintza. (D'Urban's personal and annotated copy.)
1836	VII	538	Report from the Select Committee on Aborigines (British Settlements).
1837	VII	425	Report from the Select Committee on Aborigines (British Settlements), with official report and further evidence.
1837	XLIII	503	Further Papers re Kaffir War. (D'Urban's personal and annotated copy.)
1847	XXXVIII	[786]	Correspondence re state of the Kaffir Tribes on the Eastern Frontier.
1848	XLIII	[912][969]	Correspondence re state of the Kaffir Tribes on the Eastern Frontier.

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XI MAP SOURCESA. OriginalCape Archives

<u>No. in Map Collection</u>	<u>Description</u>
2/873	Eastern Province of the Cape of Good Hope and Kaffirland.
2/874	Sketch of Forts.
1/2727	Positions of Forts, 1836.
1/2673	North-East of the Cape Colony exhibiting the positions of the Emigrant Farmers and the Native Tribes, May, 1837.
1/2728	Part of the Colony of the Cape of Good Hope showing extent of Kaffir Invasion in 1834-5.

Cory Library

<u>No. in Map Collection</u>	<u>Description</u>
MP 161	Arrowsmith: 'Cape of Good Hope, 1834'.
MP 150	Arrowsmith: 'Eastern Frontier of the Colony of the Cape of Good Hope (and part of Kaffirland) from Algoa Bay to the Great Kei River, 1848'.

- MP 193                      Arrowsmith: 'Eastern Frontier of the Colony of the Cape of Good Hope (and part of Kaffirland) from Algoa Bay to the Great Kei River, 1851'.
- MP602                      1 : 50,000 South Africa, Seymour, 1965.

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NOTE ON MAPS

All Maps were drawn by the candidate.

Map 1 was based upon the map on the back inside cover of Arthur Bryant's Years of Victory and Sir John Fortescue's Maps and Plans illustrating Fortescue's History of the British Army, Vol. VII.

Maps 2, 3 and 10 were based upon those in Theal, History of South Africa, Vol. II, between pp.173-4, and Vol. III, between pp.57-8.

Map 4 was based upon Arrowsmith's map of the Eastern Frontier, 1848.

Map 5 was based upon 1 : 50,000, South Africa, Seymour, 1965.

Map 6 was based upon the sketch map, Enclosure 9 in D'Urban to Glenelg, 7 November, 1835. (P.P., 1836, XXXIX, (279), between pp.106-7), together with the verbal descriptions contained in the Treaties of 17 September, 1835, of the areas allocated to the tribes (P.P., 1836, XXXIX, (279), pp.95-8, D'Urban to Glenelg, 7 November, 1835).

Map 7 was based upon map 1/2727 in the Cape Archives as well as the map contained at the back of Cory, The Rise of South Africa, Vol. III.

Map 8 was based upon the text of Stockenstrom's Treaties of December, 1836 - January, 1837 (P.P., 1851, XXXVIII, (424), pp.2-7) and Appendix IV in G.B. Crankshaw, 'The Diary of C.L. Stretch - A Critical Edition and Appraisal'.

Map 9 was based upon Map 7 of the Tomlinson Commission's Report on the Socio-Economic Development of the Bantu Areas within the Union of South Africa, 1955.

## APPENDICES