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THE DEVELOPMENT OF NATIVE POLICY IN THE TRANSKEI AND IN  
GLEN GREY BETWEEN 1870 and 1900.

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(1939)

Submitted by:- M.S.Griffiths B.A. (Cape and South Africa).

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Certified:-

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*Jim Donald*  
*Com & Cath*  
*for Wynberg C.P.*

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*M.S. Griffiths,*  
*"Maddala",*  
*Gibson Road,*  
*Wynberg,*  
*Cape.*

I.

DEVELOPMENT OF NATIVE POLICY IN THE TRANSKEI AND IN THE  
TEMBU LOCATION OF GLEN GREY BETWEEN 1870 and 1900.

OR

The Development of Native Policy in the Transkeian Territories with particular reference to Fingoland, namely the districts of Fingoland, Idutywa, and Galeka-  
land, including the magisterial divisions of Mquamakwe,  
Tsomo, Butterworth, Idutywa, Kentani and Willowvale:  
and of Tembuland, namely the districts of Tembuland,  
Emigrant Tembuland, and Bomvanaland, including the  
magisterial divisions of Umtata, Engcobo, Mganduli,  
Xalanga, and St. Mark's and Elliotdale, in so far as they  
illustrate the salient features of this policy, and  
of Glen Grey which was first associated with the  
system ultimately applied to the Transkei.

The Transkeian Territories extend over a stretch of 17000 square miles between the north eastern border of the Cape Colony and the southern border of Natal. In 1870 this was an exclusively Native area; inhabited by some half million natives tribally organised under independent chiefs and grouped into racial entities according to origin, customs, and language dialects.

The most powerful were the Galekas; under the paramount chief Kreli; the Tembus under their paramount chief Gangelizwe; the Pondos under Umquikela, son of Faku. Hardly less numerous but of quite a different character and standing were the Fingoes; who owed their strength and security to British protection and who possessed no paramount chief; and the Griquas a bastard race from the northern border of the Colony who had been granted land in the Transkei in 1861. Lesser but distinct tribes were the Pandomise and Xesibe tribes weakened by constant raids of the Pondos and Griquas until eventually annexed by Britain; the Bacas under the Pondos; and the Bomvanas owing allegiance to the Galekas. Only the Fingoes and Griquas showed the influence of European civilisation; the rest lived according to primitive law and custom, the mass hardly touched by European ideas disseminated through missions and trading stations, which numbered some two dozen at this date.

Britain recognised no legal claim over these territories.

The / ...

*Fingoes & Griquas  
must not be  
of natives  
in area*

The vigorous independence of the natives, their war-like nature and overwhelming numbers, served to stop the eastward expansion of the Europeans, but relations between Colonist and Native had for many years been a constant source of disturbance to the government.

The Treaty system on the immediate border had been tried and proved a failure. It was swept away by Sir Harry Smith in 1847, when he annexed British Kaffraria, and extended the boundary of the Colony itself to the Zwart Kei, Klaas Smits and Kraai Rivers, and the Stormberg range. Beyond this the native chiefs were independent, although all had at one time or another signed Treaties with the Government of the Colony; and these Treaties were never formally annulled. Sir Harry Smith, given time, would have annexed the entire area between the Cape and Natal, but until this day should arrive he pursued the system of stationing 'agents' with the chiefs, in order "to maintain friendly relations". This system had been begun in 1837, when a diplomatic agent was stationed with Faku, and another with Kreli, the Paramount chief of the Galekas "as guide to the chief and protection against perfidious councillors, and to curb the evil propensities of the people".

Parl. Papers  
on Kaf.  
Tribes 1847-  
1851.

These instructions are significant for they establish the two-fold character of the office.

The 'Agent' /<sup>system</sup> was designed to prepare the way for an extension of British rule, as had been accomplished in British Kaffraria; but ~~the instructions the xxxxxxxx~~  
~~xxxxxx the disastrous war~~ of 1850 - 1853 prevented

this/...

this.

The war proved conclusively the folly of sudden imposition of European methods upon native communities. It postponed for twenty years the establishment of definite authority, or even the recognition by the Cape of responsibility for the areas beyond the Kei.

Cathcart, on concluding the war, organised a military settlement on the frontier; Native policy had retrogressed, its principle now being one of segregation by force of arms. Resident Agents were withdrawn with the exception of M.B. Shaw who remained as Agent with Kreli. The reason for this segregation was the dangerous part played in the war by the Transkeian tribes who had been instrumental in stirring up the newly annexed Kaffrarian natives; Kreli had even furnished them with gunpowder (originally purchased from Moshesh). This activity resulted in Cathcart's expedition across the Kei, and his driving Kreli beyond the Bashee and the White Kei in the north. Further east the Pondos had fortunately remained loyal, and more, professing themselves "ready to enter the territory and plunder the chief Kreli in the interests of Her Britannic Majesty"!

The Tembus were divided after the war, some divisions annihilated, some dispersed, and a few under Nonesi given a location on the Colonial side of the boundary. This was the famous Tambookie location, subsequently known as Glen Grey. These natives were to be under Colonial law but were, actually, left for many years to themselves. A few months after the location settlement, the border

town/...

original of Glen Grey  
after war with  
tembus

July 1852

town of Queenstown was founded, the land being thrown open to applicants of English or Dutch origin, on the understanding that they might be called out for military duty at any time. Further south, in the Ciskei, after long and persistent warfare and by eventually reducing them to starvation, Cathcart cleared the natives out of the Amatolas, and expressed himself "happy to state that the country was entirely deserted".

Nov. to Feb.  
1852- 1853

Cathcart's  
Letters.

Fortunately, Cathcart's successor in office, Sir George Grey, through a policy of parental guidance and co-operation in British Kaffraria restored some feeling of confidence among the Colonial natives.

But although peace was thus established in the Colony, intestine war beyond the Colonial boundaries continued, and two years later, in 1855, there were grounds for believing that the Fingoes and the other natives within the Colony were being influenced.

P.P. on Kaf.  
Tribes. 1853  
Vol. 23

The chiefs in Kaffraria were restless, and those in the Fingo and Tambookie border locations near Queenstown were equally so. In February 1857 came the tragic Cattle killing episode originating with the Galekas, but spreading to practically all the branches of the Amakosa.

Thousands died and many more poured into the Colony. This not only decimated the Transkeian natives but it dealt the first blow to the tribal system and to the native belief in witchcraft. In Kaffraria it made possible the great success of Grey's system of civilisation and Europeanisation, "for it did more than anything else to uproot the veneration with which the natives regarded their chiefs."

Warner's  
letters  
from Tam-  
bookie Loc.  
to Gov.

Recognising the dangerous influence of the extra-colonial natives, Sir George Grey gave instructions that the Galeka country immediately beyond the Kei should be cleared of Kreli and his adherents and of all other natives. This would prevent its being made a base of attack against the Colony. The Frontier Armed and Mounted Police under Lieutenant Griffith aided by Colonel Gawler with frontier natives, and a few loyal Tembus, drove Kreli beyond the Bashee into Bomvanaland. In the depopulated area near the centre of the old Galeka country, beyond the Kei, the Idutywa reserve was created for those natives who had loyally served under Colonel Gawler. A magistrate styled "Transkeian Special Magistrate" was stationed there, who "exercised jurisdiction over the people and kept the Governor informed of what was going on." Thus Britain took her first step over the Kei. ✓

Colonel Gawler, Colley, Shepstone and Chalmers in succession held the position of Special Magistrate between 1858 and 1864, appointed by the government of the province of British Kaffraria, of which Idutywa was a dependency, and at the same time he acted as Agent for the Governor of the Cape Colony, who in ~~this~~ capacity of High Commissioner was responsible for border areas.

Apart from this small Reserve of mixed natives, the land between the Kei and the Bashee was kept empty and policed by the Frontier Armed and Mounted Police at considerable expense to the Imperial Government.

It/...

It is difficult to excuse such an act of aggression and folly on the Eastern Frontier as the depopulation of the Kei-Bashee lands. The country beyond the Bashee was rendered increasingly congested and rebellious, and it was clear that this second "ceded Territory" would become the arena of another black and white land conflict, unless it were effectively occupied by the original owners again or by colonists, prepared to defend it against the natives.

In 1862 came the expected sequel in the shape of Wodehouse's proposal to settle Europeans in the vacant lands - a settlement to be carried out under the protection of additional Imperial troops. More to limit military expenditure than for any other reason, the British Government took a stand, and issued instructions in 1864 that "British Dominion must be withdrawn from the Territory, and the Kei made the extreme boundary". Wodehouse's settlement scheme had to be abandoned. Rather than restore it to the implacable Galekas, he attempted a division of the country among various native tribes, in the belief that these tribes would act as a check upon each other, and in so doing prevent a strong combination against the Colony.

The Northern portion was given to the Tembus; the central portion to 40,000 half-civilised Fingoes who were drafted out of the Colony itself (an interesting adaptation of Roman methods); the southern coastal strip, Kreli was permitted to reoccupy and "paid a hundred pounds a year so long as he conducted himself in a friendly manner."

Letters from  
Warner re  
Tambookie  
Chiefs .  
1857

Thus/...

Thus what later became known as Tembuland, Fingoland (incorporating Idutywa) and Galekaland was created.

Beyond this, stretching north east to Natal, there remained the Pondos on the coast, threatening to add to their land by seizing that of the unfortunate Pondomise; the Bomvanas immediately adjoining Kreli, to whom Moni the Bomvana chief owed allegiance; the Griquas under Adam Kok, who had been permitted to occupy Noman'sland north of Pondoland in 1861, and forming the present Griqualand East.

Adjoining Tembuland was the division known as Emigrant Tembuland, inhabited by Tembus who had crossed to beyond the Indwe from the Colonial Tambookie location. As part of Wodehouse's settlement, he had proposed that this entire Tambookie location should be moved, but only a small proportion of the natives had agreed to leave the Colony, and this had resulted in some Tambookies, or as they were called Emigrant Tembus, still occupying the old Colonial location while others occupied the new. Four clans under separate chiefs were recognised in this new Tambookie location, beyond the Indwe.

Warner -  
Wodehouse  
Correspondence.

The settlement of the Kei-Bashee lands was not a happy one. Kreli aimed at reclaiming the whole of his former territory. He saw it occupied now by the Fingoes, a one time servile and despised tribe, strengthened beyond recognition by their contact with and residence in the Colony; by the Tembus, his traditional enemy; and by the Idutywa natives who formed an unstable wedge between Galekas and Fingoes.

The Government hoped by its influence alone to preserve order among these people. "In disposing of this Territory" wrote Wodehouse to the Secretary of State for the Colonies "we entirely relinquish all rights of sovereignty over it, and these tribes will be governed by their own chiefs, and according to their own customs. But in accordance with their own wishes, for their own benefit, as well as our own, each tribe will be guided and aided by a British Resident". It was a return to the "Agent" policy of Smith, although it professed to be one of abandonment.

This was the relationship between the Cape Colony and the Transkei for several years.

Mr. J.C. Warner was stationed at Idutywa as chief Diplomatic Agent in 1865, and subordinate to him, E.J. Warner at Southeyville with the Emigrant Tembu tribes: Captain Cobbe among the Fingoes, and Mr. W. Fynn as Resident with Kreli. Mr. Warner, senior, corresponded with the government, but his only legal authority was derived from a commission under the Imperial Act 26 and 27 (Vict. C. 35) to cause the arrest of criminals being British subjects between the Kei and Natal. In 1869 the Agents were placed in direct correspondence with the Governor, as High Commissioner, and the Idutywa Reserve lost its priority of place. There was as yet no Agent among the Griquas, none among the Pondos (Fynn was withdrawn in 1850), none with Gangelizwe, Paramount chief of the Tembus, until Chalmers was appointed in 1871.

The/...

The natives soon discovered that the European Agents were without any real authority, and only those who could acquire personal influence could be of greater use than as mediums of communication. But the Imperial Government refused to shoulder administrative responsibilities, although it was plain that the Territories would, and could not, be completely abandoned. A duality of ideas existed at this date due to the Imperial distaste of direct rule combined with a desire to control. Hence, the "suzerainty" that British Colonial Agents have had to adopt frequently in Britain's relations with other races.

The Colonial Secretary wrote: "His Excellency believes it to be essential to the successful working of the Transkeian settlement that the British officers employed there should be perfectly aware that they possess no authority in the legal sense of the word, derived from the British Government. Their authority must, strictly speaking, be derived from the chiefs and the people with whom they dwell". A fact, he added, not to be brought into prominence for fear that it might lessen their influence with the natives. He went on to suggest means by which Agents might persuade the tribes "of the value of standing high with the administration, and of remaining alive to the benefits of the Imperial favour "

8th Nov.  
1866

In keeping with the abandonment policy of H.M. Government, the Agent of Idutywa ceased to be Special Magistrate, and assumed the humbler title of Superintendent. The Fingo Agent was told that the "Government does not profess to exercise the authority of law over these people, or claim the right of enforcing its decisions further than as they may be accept-

ble to the people themselves."

July 1868.

It was clear that the Colonial Office was not yet prepared to extend the policy it was at that time being forced into with regard to Basuto-land, namely Annexation.

Expenditure remained one of the deciding factors in Imperial moves, and Wodehouse had been warned that the Imperial Defence Grants were to be withdrawn. He hoped to be able to prove that by stationing judicious Agents in the Transkei peace might be preserved without armed forces. The farmers on the border did not share this view, and constantly the "large bodies of natives collected in the Transkeian areas" were referred to in alarmist petitions from even such settled areas as Grahamstown, asking that the troops should not be removed under any circumstances. If a strong combination of natives had been avoided by the Divide et Impera scheme of 1865, repercussions were to be expected from the inevitable quarrels due to the juxtaposition of warlike tribes; and as the British Residents were backed neither by legal authority nor military forces, it was important that the Colonists should have an efficient defence organisation on their borders. So the Imperial Treasury was obliged to go on paying for defence but did so unwillingly by contributing a gradually decreasing amount towards the Militia. In addition, the Colonial Office made no contribution towards to the salaries of the Transkeian Agents, who were paid by the Colony.

Encl. and  
Letters -  
Wodehouse to  
Granville.  
Feb. 1870.

The/...

The Governor, as High Commissioner, was the link between Imperial and Colonial authority. Only after the Department of Native Affairs had been created in 1872 did extra-Colonial native policy become associated with Cape Government policy. In the early seventies, however, responsibility lay with the High Commissioner only. According to the letter of his appointment, his functions were not only diplomatic, nor subordinate to those of a constitutional governor; for the office of High Commissioner was created "to exercise paramount authority and protectorate relations over native tribes near and between Britain's South African Colonies, to be supported by her Treasury and her Forces, until a self-supporting settled form of Government might be established". It is abundantly clear then that the Transkeian areas should have been the High Commissioner's immediate care; this very guardianship foreshadows annexation, while the vesting of the High Commissionership in the person of the Colonial Governor points already to ultimate Colonial responsibility and annexation. Of all the extra colonial Transkeian tribes, the Fingoes were the deciding factor with regard to intervention and annexation. An examination of their position shows that the professed abandonment of the Transkei never was complete. Britain wished to maintain certain rights in the area, but was not prepared for further expenditure; she, therefore, ignored the Territory

S.C. 1873  
P.3. L. 27

Blue Book  
Kaf. Tribes.  
1848

until/....

until forced to see that the Transkeian tribes might jeopardise Colonial security.

In 1865 the Fingoes had been induced to move into the empty Kei-Bashee area, although many at first were unwilling. They were relinquishing the protection of the Cape Government, accorded to them since 1835, for an independence which might prove disastrous. Within the Colony they had been established under the careful location system of Calderwood and his associates, as a people, strong, prosperous, and self-respecting; whereas they had once been regarded as the "dogs of the Galekas", and despised by all other tribes. Galekas and Tembus would, they feared, try to reduce them to servitude again, particularly as they were granted territory which Krell was determined to recover. Before leaving the Colony they, therefore, asked Wodehouse to allow them a "magistrate but no taxes, and certificates of citizenship which had been granted to them before"; they agreed that Kaffir law would prevail only in so far as it was not repugnant to civilised standards, as in Kaffrarian Territory, (The Ciskei).

Charles Brownlee. S.C. 73.

Under these conditions, modified, the Fingoes numbering 40,000 settled across the Kei in Fingoland. Their initial fears were justified, for within four years they showed signs of breaking up into small groups, slipping back into old barbarisms, and in every way laying themselves open to the very disintegration that precedes servitude. Their old

chiefs/...

chiefs were gone; petty headmen were ambitious and unscrupulous: and the best among them admitted their inability to form any sort of tribal government as they had no bond of union. The Agents were obviously not effective enough at first.

Their salvation came with the appointment of Captain Blyth, as Agent, in 1870, after the withdrawal of Cobbe in 1869. At the same time, the Governor of the Cape, Sir Henry Barkly, took a vitally important step by granting communal Title to the Fingoes in Fingoland, 1871. Their boundaries were defined; their land secured, their possession guaranteed - in fact, they were once more "government people". Britain had taken a second step across the Kei.

The Idutywa natives, established in 1857, had never been granted title to their Reserve, but looked upon themselves in the same light as the Fingoes did.

Intervention did not stop here. Elsewhere in the Transkeian Territories the Government found itself obliged to interfere. Correspondence between the Governor, Barkly, of the Cape and Keate of Natal shows how critically the intervening country was regarded. Shepstone actually paid a visit to Pondoland to try to end the Pondo-Griqua quarrels, and he urged the necessity for a British Resident in Griqualand East. The Ayliff-Griffith-Murray-Grant Commission was appointed to settle boundaries; and beyond this, recommended a system of land settlement for promoting agriculture and encouraging the arts of peace; and they

40/- quitrent  
1000 acre  
Farms.

suggested/....

suggested that the area might become a second Basutoland.

Natal was not willing to undertake the responsibility of an extension in territory, and the urgency of constitutional questions in the Cape led Barkly to shelve the problem. But shortly after, Orpen was appointed as magistrate among the Xesibe tribes, in Griqualand East; and the general opinion of the day was that these disturbances being due to lack of Government authority, could be stopped only through annexation.

Nearer the Cape border the same sort of disturbance was manifesting itself. War broke out between Kreli, the Paramount chief of the Galekas, and Gangelizwe, chief of the Tembus, and only the intervention of Hargreaves, the Missionary at Clarkebury, and the realisation that the British Government was watching events, prevented the Galekas seizing Tembuland. Gangelizwe, the Tembu, took the opportunity to sue for British protection, and another Commission had to be appointed to make a full enquiry (the Judge-Murray-Grant Commission), but once peace had been secured Gangelizwe withdrew his request and no annexation was made.

However, by 1872 the abandonment policy of 1864 was recognised as impossible. Britain was pledged by various obligations, by necessity and self-interest to re-assert herself in the Transkeian areas. But the process was very slow,

and/...

and the understanding of conditions and needs of these natives was for a long time notoriously deficient.

In the year 1872, the first Secretary for Native Affairs was appointed in the person of Charles Brownlee, a man of strong common sense, sound administrative ability and experience. His sphere was primarily in the Colony, the native areas of Kaffraria, and Basutoland, in particular, and the numerous native Locations along the Eastern and North Eastern border; but his connection with the Transkeian lands was necessarily important, and he was in constant correspondence with the Agents and Residents there. He guided, controlled and finally systematised their policy; he rendered Fingoland and Idutywa practically parts of the Colony, long before Annexation Acts were promulgated.

The position was not the same with the Tembus and Galekas. Both were constituted under strong native tribal government. Kreli was intensely independent, and the British Agent, Fynn, had practically no influence: negotiations had to be carried on with the Government on a Treaty basis.

Gangelizwe, the Tembu, once the danger of invasion was past, refused to relinquish any of his power, although the Agent Chalmers (1871 - 1873) and later Wright tried to keep him alive to the benefits of Imperial favour.

During the formative years between 1870 and 1877, the Magistrates and Agents, backed by Brownlee, evolved a workable system, the strength of which lay

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in the amount of independence left to the individual officials. They responded to the needs of the tribes with whom they worked, and by regulating the pace of change, they reduced the effect of the clash between European and Native cultures. Uniformity of administration was impossible where tribes varied so greatly.\*

Fingoland, including the district later formed into the Chief Magistracy of the Transkei, and Tembuland, may be taken as representative areas in analysing the development of native policy here; the former being a specialised and in most respects a leading Territory, the latter an area typical of more independent tribes brought under British control.

In 1870, Captain Matthew Blyth became Fingo Agent, and from his appointment dates the rise and progress of these natives. He became the most powerful man beyond the Kei through his steady sympathetic guidance and skilful introduction of European improvements; co-operating all the time with the Fingoes themselves. His method was based upon certain principles followed in Kaffraria - the gradual assumption of authority by Magistrates over that of the Chiefs, the administrative work being carried on by native headmen and native police who were paid by the Government, for the Fingoes paid no taxes. Communal land tenure was retained. The country itself was remarkably fertile and as the natives were industrious and loyal, this was the best ground for experimental work in administration.

Blue Book  
on Fingo  
Exodus.  
July 1867

Regulations regarding Kafir Law for these Fingoes had been drawn up in 1867; they were based mainly upon the system used by Maclean and the Kaffrarian magistrates. Both Warner

and/...

and Cobbe who had preceded Blyth had had copies of Maclean's Compendium despatched to them with government instructions to follow this, but they had no right to impose any new regulations upon the Fingoes: nominally, the chiefs and headmen were supreme. They dealt with cases and imposed and collected fines. Money from licences i.e. timber and trade licences, were generally collected by the Resident, but expended in the Territory. Whether any law cases were brought before the Resident depended entirely upon the relative influence of Resident and Chief. Here lay the key to Blyth's power. The Fingoes had no strong tribal organisation and in place of a Chief, numbers of petty Headmen. In consequence, Blyth came to be regarded as protector, friend and chief of the Fingoes. He was too wise to assume dictatorship. With regard to laws and regulations issued by the Secretary of Native Affairs from time to time, Blyth stated "I call a meeting of the Fingoland Headmen and lay the matter before them. The whole question is discussed and becomes law by the voice of the people"

Letters from Blyth. Feb. 1873.

It was exactly the method of the chief and his Amapakati or councillors in the best regulated tribes, where the chief, far from being an autocrat, was the guardian of the laws which were jointly made by tribesmen, headmen, and chief.

The administration of justice at this early date was simple:- the Headmen heard all cases

Native Laws Comm. 83

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in the first instance, but appeals could be made to the Agent. In arrests the Imisila (legal messenger) sent from the Agent's office co-operated with the Imisila of the location in effecting the arrest or extracting the fine from the erring party, and if there was resistance the messenger had the right to call a meeting of Chiefs and Headmen to help enforce the decision.

With regard to cattle thefts, the native system of collective responsibility was recognised, and native law in other criminal cases remained, although the Agent used his influence in eradicating the worst features of this, viz. decreasing influence of witch-doctors.

Blyth believed the absence of crime to be due to this system "as the Fingoes feel they have a certain voice in the government of their country and are always willing to support me!"

Letters of  
Blyth.

As Blyth and the other Agents recognised very soon, administration in the native areas had two aspects (a) political and administrative, (b) the introduction of civilisation. The success of the former was largely dependent upon the latter which involved a change in their entire social structure. Native society was characterised by tribal or communal land tenure which maintained a conservative political system and was a check to individual effort and, therefore, progress. According to European views tribal land tenure had to be destroyed. In achieving this, not only the power of the chiefs would be broken, the tribes disintegrate, the individual emerge, but witchcraft and superstition, the main hindrance to progress would disappear with other

tribal/...

tribal customs. Without communal lands, and no restriction upon the individual, intensive agricultural farming would take the place of stock farming, the economic situation <sup>would be</sup> eased, chances of stock thefts and plundering wars minimised. To destroy communal tenure was, of course, to break the foundations of chieftainship, for the tribal lands were held in trust by the chief for his people, and once the chiefs relinquished their hold over land they became mere agents of the government. The extreme difficulty of introducing such far reaching social changes called for the highest type of understanding and the most tactful dealing on the part of the magistrate. It was unfortunate that the Government could not always appreciate the difficulties of the officers in the Territories.

The importance of raising the natives to a higher standard of civilisation not only for administrative purposes, but in order to promote their own welfare, was first realised by the missionaries. Butterworth had been founded as early as 1828, and by the 1870's there were a great number of missions and branch mission stations - Wesleyan, Presbyterian, and Anglican, -throughout the Territories; Clarkebury under Hargreaves was the most outstanding. Converts, however, were comparatively few in number for Christianity was not understood, and the type of education which the mission schools offered was not always fitted for the natives. Sometimes, too, the missionaries were foolish in condemning or misinterpreting long-standing native customs, such as Lobola and Polygamy. In spite of this the pioneering work of these missionaries, their courage

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and their high idealism cannot be over-estimated. They prepared the way for the magistrate in introducing western ideas: in breaking down witchcraft, in curbing the tyranny of the petty chiefs over their subjects: in directing the attention of the natives towards peaceful land pursuits instead of war.

Both missionary and magistrate realised that ✓  
the main obstacles to civilisation were the power of the chiefs and the tribal land and social system. These features were not so pronounced among the Fingoes as amongst most Transkeian tribes. After three generations of contact with the Colony, the people were not so tenacious of their own customs; their witch-doctors were not so powerful; their headmen created no strong tribal sense. Blyth with the concurrence of the headmen was able to limit the once socially important Intonjane ceremonies, connected with circumcision, and the Abaqueta customs, both of which encouraged degrading habits; the rite of circumcision itself was not interfered with. He also laid down rules for the customary beer gatherings which were the chief ground for promoting social barbarisms and faction fighting.

Correspon-  
dence 1873

Working gradually to encourage agricultural interests and to prepare the way for a new land system, Blyth proposed that an Agricultural Show should be held on the precedent of the Peddie Shows held by the Colonial Fingoes. Prizes were to be given for the best exhibits. He was able to rouse the interest of the Governor of the Cape, who not only consented to be named President but granted from Government funds twenty-five pounds towards expenses. It proved a success, with an attendance

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of 3,000 natives, and a creditable balance of £24. 7. 0 after the prizes had been purchased. The Governor was enthusiastic and promised to double the money contribution the following year. The shows became a feature of the district and drew Tembus and Galekas, including even the chief Kreli to participate.

Letters  
from  
Blyth.  
Mch. 1873

Blue Book  
1876

Unlike most of the natives, the Fingoes realised the value of money; due partly to their residence in the Colony, partly to a natural shrewdness they possessed. There was no evidence of poverty in Fingoland. The new roads had been constructed at the cost of £600 "raised by subscriptions from the Fingoes themselves"; and their wealth was manifested in other ways likewise - their agricultural implements and their flourishing trade with the other natives. The rapidity of their advance roused the interest of educationists in the Colony. Doctor Stewart had established Lovedale with marked success, and in July 1873, he paid a visit to Nqamakwe, and proposed that the Fingoes should raise a thousand pounds which he was prepared to double, to provide for an industrial school in Fingoland, to be a branch of Lovedale, the Colonial Native School. He met with a willing response and an offer of the required sum in three months time. Each man would be asked to give five shillings, and a committee of seventeen headmen, the missionary, and the magistrate were appointed as trustees. Actually, the collection of funds went on for some years, and it is important to notice

Blyth's  
report.  
1872

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that the committee administering the funds was chiefly made up of natives. The whole proved a great success.

It was unfortunate that Brownlee should choose this moment for imposing the Hut Tax upon the Fingoes and the Idutywa natives. "The Government thinks that the time has come when the Fingoes should no longer be satisfied to regard themselves as British subjects in name only; they should henceforth contribute their fair share to the government of the Colony." This led to a protest from Blyth, and a deputation of Fingoes to meet the Government representative, Molteno, at Kingwilliamstown, with a request that the Government Hut Tax be postponed until July 1874, in view of the Fingo contributions towards Dr. Stewart's school. This was granted.

N.A.  
Letters 840.

Blyth made a spirited effort to get Brownlee to agree that the money raised should be reserved for expenditure in the Transkei, but although Molteno had given them this hope, Brownlee had to refuse. "I have no doubt that the Government intends spending the revenue on the Territory, but it cannot formally agree or pledge itself to expenditure therein: the day will come when Fingoland will be part of the Colony, and the money raised will have to go into the general Treasury, just as the Kingwilliamstown money goes into the Treasury.... It was expected of the Fingoes utterly and unconditionally to pay the Tax".

Letter.  
Book 841  
Feb. 22nd

This tax was the common 10/- p.a. Hut Tax, paid in Basutoland and in the Locations of the Colony. The same was demanded from the Idutywa natives, then under Cumming as Superintendent, and

from the Tsolo tribes in East Griqualand where Orpen had been appointed magistrate.

Fingoland was accorded considerable publicity by reason of the rising Industrial School, its mission station at Butterworth, and its obvious prosperity. Blyth's ability was recognised in the papers of the day, if not by the Government Treasurer who continued to pay him a lesser salary than either Wright (with Gangelizwe) or Ayliff (with Kreil).

The Territory was looked upon with gratification. not only because "it ensured a satisfactory policy under the auspices of the government, for the civilisation of the natives, and, therefore, for peace upon the Frontier, but because it did not call upon the purse of the thrifty colonist". It proved that without financial help, the native with guidance could advance to a satisfactory civilised level. Economist and philanthropist were satisfied.

Argus.  
Jan. 1874

The Select Committee report of 1873 elucidated the position in the Transkei and brought that area to the notice of the House. In the same year a resolution was passed "that a Blue Book on Native Affairs be placed on the table each Session."

The first Blue Book was published in 1874, containing reports from the Transkei Agents, as well as from Location Superintendents and Magistrates in the Colony. It was only a matter of time before Fingoland and Idutywa and Griqualand East were legally made parts of the Colony. In August 1874, at the very

end/...

end of the Session, Mr. Sprigg demanded the Blue Book which had been prepared but not placed before the House "to get information of the feelings of the chiefs about Annexation which was ultimately to be assumed, for" he added, "nothing could be done without the chiefs' consent". It was known that Griqualand East under Orpen would come under the Government, but Annexation of the rest was only foreshadowed". The Colonial Secretary stated "that the time was not ripe for it", and unfortunately the Blue Book appeared only the day before the Assembly rose, too late for any criticism, constructive or otherwise, and too late to evoke any interest in the question. It had to be shelved until the next year.

In 1875 a Resolution was passed in both Houses, recommending the Annexation of Fingoland and Idutywa to the Cape. The Colony was beginning to accept its responsibilities. The Resolution made practically no difference in Fingoland. "I interpreted it", said Blyth, "as a formal proceeding that they were always to be British subjects, and their interests were safe in the hands of the British Government."

✓

Sept. 4th  
Letter.  
Book 841

Brownlee wrongly stated that "the Fingoes had applied to be annexed and paid their Hut Tax in advance to secure this object" - an unnecessary misinterpretation, if intentional, as the Fingoes had never regarded themselves other than as British

Press Report  
8th June  
1875

subjects/....

subjects. However, it was four years before the Annexation Act passed in 1877, came into force with the Governor's promulgations of 1879.

Letters Patent  
1876.  
Act, 1877  
Gov. Proc.  
1879

The Hut Tax was paid from July 1876 onwards, into the Government Treasury, and thereafter an exact record had to be kept of all revenue from Fingoland, and similarly from Idutywa, with no expenditure other than that authorised by the Government. Apart from the Hut Tax, there was money derived from the fines: from this were paid the headmen and messengers, and a quarterly return forwarded to the Head Office (in accordance with the letter of the Secretary for Native Affairs - 224, April 10th 1875); while all licence money, including sawyers' licences (£1.5.0 per saw per quarter minus 10% discount for headmen) which had been paid to the Fingoes since 1865, also went into the Treasury.

March 6th.  
Letter  
Book 841.

The expenditure was considerable. The Fingo Agent drew £500 per annum, raised to £600 in 1875: the Clerk drew £195; the Native Police £12 each per annum, and the Native Postmen the same, while the headmen of the district £260 among them. Other calls upon funds were numerous, but Fingoland by 1875 was more than covering its expenses.

Blyth wrote that there was no complaint regarding the Government decision over taxation and expenditure, but he asserted emphatically the needs of the districts - education - offices and prison - hospital - roads and bridges. He also demanded a re-organisation of the police to do away with the Imisila system by which the messengers were paid out of the fines they collected, the remainder

going to the chief or headmen as rewards - a system too easily open to abuse.

Blyth's plea for educational funds was not made without a knowledge that they were needed. Owing to the work of the missionaries, there were over 2000 pupils in the 46 schools of Fingoland, run by European and more often by native teachers. In the following year Doctor Dale granted Government support to these schools; but the greatest need was still the Industrial school, in the process of construction. In 1875 Dr. Stewart returned from a visit to Scotland with £1,500 to add to the money raised by the Fingoes for the future Blythswood.

Press  
Report. 75

With the Annexation proposals and the publicity given to Transkeian activities, claims began to be made in the Colony upon the labour resources of Fingoland, but there was little inducement for these natives to leave their own country, and until the drought of 1874 there was not any great contact between the Colony and the Territories.

Before the end of that year, however, over a thousand passes had been issued, and in January 1875, Charles Levey (Clerk and Assistant to Blyth)

was designated Labour Agent in Fingoland. The Government began to call for men for the East London Railway Works - thus, the thin edge of the recruiting wedge was applied. Although the reports of these Fingoes about the work in the Colony

N.A. Letter  
Book, 841.

were satisfactory and although they brought back annually "upward of £30,000 to enrich the

Blue Book  
Report 76

Territory" the whole system was fraught with evil. They returned with their earnings in

the/...

the form of guns which the Government permitted them to retain, and which they sold at a profit to the Galekas. In addition, there began a trade in liquor, and a demand for it that led to an elaborate system of illicit liquor dealing on the part of the traders in the Transkei. These traders were by now numerous; the Fingoes provided a good market; Brownlee quoted the figure of £180.000 for the purchase of imports, and pointed to the Fingoland revenue with its satisfactory factory credit balance.

Blue Book.  
1876-  
R.£4376.16.6.  
E.£4175.17.6

In the meantime, Blyth was pushing his scheme of agriculture in place of pastoral farming, which was to effect a change in society with a change in land tenure. "No more crops will be sown", he wrote, "until the land is enclosed". To encourage this I would recommend, where a quantity of land is cultivated and a house built, that an occupation ticket be granted by the Government. This would give an increased security, and prevent headmen interfering with those of the people who desired to be industrious and to advance in civilisation". But Blyth found that where an "occupation ticket" would be accepted, any attempt to sweep away, generally, the communal tenure system would not be tolerated. In the same way, many traditional customs, good and evil, were carried on by the mass of the people in spite of resolutions of the headmen and government circulars. The outward signs of civilisation did not yet indicate a very deep change.

The Idutywa natives did not show the same interest in European methods as the Fingoes. This was chiefly due to the mixed character of the group collected there, which included remnants of Tembus, Dlambes, Galekas and Fingoes. They were more primitive as they had been longer dissociated from the Colony, (<sup>Idutywa Reserve</sup> established 1857) and their peace and security continually being destroyed by the Galekas in the south and the Tembus in the north who were long-standing enemies. They drew the Idutywa natives into their disputes. Stolen cattle were driven into the Reserves by both parties, although Cumming, the Superintendent, vindicated his natives of having anything to do with the actual thefts. Their land would have long since fallen to one or other of these powerful tribes, if it had not been for Government protection. This the Idutywa chiefs knew, but they none the less resented the steady encroachment of the Agent upon their own power, for their people were beginning to turn to the Agent as the chief authority. It was frequently stated that "the people were proud to pay the Hut Tax, as it made them less dependent on the chiefs," and Cumming wrote that "it was well known that the natives are saved from oppression of their chiefs by having cases brought before the Government Office." It was the difficult function of the Agent to maintain a balance between the old and the new authority.

Letter to  
S.N.A.  
unpublished

In Idutywa trouble with the Tembus almost led to war in 1875. Menziwa, a Fingo chief on the

Tembu/...

Tembu border, fled into Idutywa from the savage Gangelizwe (Tembu chief), and only the Frontier Police under Commander Bowker prevented war; it was lesson enough to the Tembus that British protection of Idutywa was substantial.

These Tembu tribes form the second great group to be considered in connection with the early advance of European authority across the Kei. They were quite distinct from the Fingoes, both in social organisation and character. Three divisions may be dealt with: the TEMBUS IN TEMBULAND PROPER; the EMIGRANT TEMBUS ON THE INDWE bordering on the Colony; and the COLONIAL TEMBUS OR TAMBOOKIES actually in the Colony, but practically uncontrolled.

The Tembus in Tembuland proper recognised Gangelizwe as paramount chief. Their own laws and customs, including witchcraft, were in full force, and although the Wesleyans had already made Clarkebury famous, and the Moravians had also set up missions, very few Tembus had broken away from the tribal organisation. The chronic state of warfare on the Pondo border, and the antagonism towards the Galekas and Idutywa natives, helped to keep the Tembus uncivilised. The Agent with Gangelizwe was Mr. W. Wright, who was called upon constantly to serve as a mediator between Gangelizwe and his enemies. Gangelizwe's barbaric habits, particularly his treatment of the Galeka women (Kreli's daughter and his niece) led to war with the Galekas and British interference. Kreli referred the matter

Blue Book on  
Nat. Affairs  
1885

to/...

to the Government, and a settlement was arrived at. The intervention of Britain twice within the period of three years made it seem expedient to Gangelizwe to make some alliance with the Government. He had offered his country to Britain in 1872 and then withdrew the offer, and then in 1875 he again sued for British protection. But he had no real intention of relinquishing his own authority. He only wished for "an understanding", because he did not intend to find the Government interfering again at the request of Krell his enemy.

A general meeting of Tembu Chiefs took place at Clarkebury in October 1875. The only important Chief not there was Dalasile. He was the most powerful rival of Gangelizwe in Tembuland, and although he was persuaded to concur with the Clarkebury agreement later he obviously did not mean to remain a British subject, and he refused to touch the salary that the Government offered him as an allied Chief. Hence, the agreement arrived at at Clarkebury was incomplete. The Tembus proposed that Gangelizwe and his subordinate chiefs should recognise British authority, accept annual salaries and admit European magistrates to reside with them. The Missionary Hargreaves, the Agent Wright, and Commander Bowker were the British representatives. They refused to recognise the paramountcy of Gangelizwe in view of the trouble he had caused. He was deposed but he was granted £200 annually, while the other chiefs received lesser amounts.

The/...

The boundaries of Tembuland were fixed, and the chiefs were to rule over the people as before, except in judging certain specific crimes, which were to be subject to an appeal to the magistrates. Such crimes included murder and serious assault; inter-tribal thefts were dealt with according to native custom, communal responsibility being recognised. Payment of a Hut Tax in 1878 was agreed to, and a promise was made that witchcraft would be suppressed.

A special commission was appointed in 1876 to enquire into conditions in Tembuland. This was undertaken by Mr. Probert. On his recommendation with very slight modifications, the country was divided into four magistracies, Emjanyana, Engcobo, Umtata and Mquandili. The following appointments were made: Mr. Wright at Emjanyana became chief magistrate of Tembuland, Mr. W.E. Stanford was stationed at Engcobo with Dalasile's people; Major J.F. Boyes at Umtata; and the Rev. J.H. Scott at Mquandili. They ruled in the same way as Captain Blyth among the Fingoes; they administered native law in so far as it was not repugnant to European standards; they dealt with cases only if the natives chose to bring them to the court instead of to the Chief. They collected rents from certain farmers in the area, and any other money, such as that derived from licences which had previously gone to Gangelizwe. Thus the Government was gradually usurping the legal and administrative authority

of/---

of the Chief.

The power of Gangelizwe, although "deposed" was by no means destroyed. The British had underestimated his influence, and before the end of the year 1876 he had to be re-instated as head of the tribe. He became thereafter a most valuable ally of the Government although his loyalty bore the stamp of shrewd self-interest.

The Emigrant Tembus are to be considered separately. Although Gangelizwe claimed over-lordship among them, this was not recognised by the Government who treated them as under independent chiefs. There were four such chiefs, Darala, Matanzime, Gecelo, and Stokwe, all of them had come from the Tambookie location in 1865 on the Government's proposal that the upper part of Kreli's lands should be granted to the Tambookies in exchange for Colonial location. The scheme of exchange broke down as only a limited number of Tambookies moved. However, the Government divided the country among them, paid them yearly salaries, and stationed Mr. E.J. Warner as Diplomatic Agent at Southeyville. They paid no taxes and they had full rights over their people, collected licences and fines without interference. Neither Gecelo nor Stokwe were of Tembu descent, but the other two were related to Gangelizwe; quarrels were frequent, and Warner had to interfere to keep the peace, although he was instructed that he had no authority other than that of an agent. In 1872 a Commission was appointed to settle boundaries - in so far did the Government extend its interest

across/...

across the Kei in this district, exactly as it was doing in the more southern Transkeian territory.

In 1873 Warner was succeeded by Mr. W. Fynn, who was replaced in 1875 by Charles Levey, but the powers of these Agents were not increased although by this date the "lands of Stokwe and Gecelo" were mentioned in Parliament as possible spheres of annexation with Griqualand East.

Votes and  
Annexures:  
House of Ass.

In October 1874 Brownlee warned these chiefs that should their inter-tribal quarrels not cease their land would be confiscated; three years later he threatened to reduce the salary of Stokwe from £50 to £24 per annum. These threats made very little difference. It was clear that the tribes resented interference of any kind on the part of the Government. They felt that gradually they would lose all, and there was increasing antagonism shown towards the British Resident; Fynn fell foul of Matanzima who accused him of admitting Fingoes into the country and allowing traders to set up stations there. The relative rights of Chief and Magistrate in the alienation of land had never been clearly defined. But in 1876 Brownlee stated "that the Emigrant Tembu Chiefs had no power to alienate land to Europeans or to natives; and Europeans were not to be permitted to settle in the country which was intended as location for Emigrant Tembus only.

Blue Book,  
on  
N. aff. '75

Levey proved to be the most able of the Emigrant Tembu Agents. His work was outstanding during the years 1876 and 1877. By his own influence he gradually won the native tribesmen to his side,

Blue Book  
on  
N. aff.

and/...

and an increasing number of appeal cases were brought to his office, "and these showed little justice in the natives' own judgment." Blue Book 77.

The chiefs resented this fiercely. They attempted to prevent appeals being made, on every and any occasion. Lack of combined action among the four Chiefs alone prevented rebellion - but it would have been a Chief's not a people's rebellion.

Under Levey, agriculture improved rapidly and trade was promoted. Forty trading stations existed, and prosperity was such that in 1876 the natives could give £700 towards the building of the Kei Bridge. On December 22nd and 23rd 1876 another step was taken towards social progress. The native farmers met at Cofinva<sup>va</sup> "to form an Association to meet annually .... the object being the improvement of Agriculture and of Native Houses". The influence of the Fingoes is evident. The members of the Association were to inform the Agent of improvements each time a meeting was held and certificates of improvement were to be issued. Darala proposed that the name of the society should be "Emigrant Tambookie Society for Promoting Civilisation". The Tembu Agent was President; there were to be three honorary members and six natives of the district to form a committee. Membership was "confined" to those with square houses". but there was no denominational bias.

The Society proved a success. Its important features were (a) an indication of a desire for agriculture rather than for pastoral farming; (b) the individual effort and initiative shown; (c) the fact that it was organised and partly run by the native themselves.

In 1877 we find the Transkeian Territories under consideration, in a transition stage. British authority had been asserted in Tembuland, in Fingoland and in Idutywa and Emigrant Tembuland. Not one of these areas was fully annexed to the Colony, but they were controlled by Agents or Magistrates responsible to the Secretary for Native Affairs, and ultimately to Parliament, under native law, uncodified, and varying according to the ability and knowledge of the magistrates themselves; Fingoland and Idutywa paid taxes, the others were free of taxes, the Chiefs being subsidised in all cases from the funds of the Colony.

How did the Colonial Government view these areas? Clearly some definite direction would have to be given to policy here; and some legal assertion of responsibility should precede this. Unfortunately the question of Federation during the years 1875 and 1877 prevented full attention being paid to Native Affairs. But in the discussion that ensued the native tribes beyond the Kei were referred to repeatedly, and the question asked whether the Cape was ready to assume control there - and what type of control.

Press Reports  
75.

In the Colony itself there existed at this date heavily populated native areas, particularly in the Ciskei, and a series of locations on the Colonial side of the Kei and Indwe. In all

these/...

these, Colonial Law was theoretically recognised, as the Cape insisted upon no legal differentiation between white and black. In practice native law was largely followed, because it was patently foolish to introduce the full flourish of Roman Dutch Law into a tribally constituted primitive society, such as existed in several of the Colonial native areas. There was the possibility of having cases reversed should an appeal be made to a European court in the Colony, but most magistrates took this risk rather than over-rule native custom. Some of the locations were in a state of extreme neglect; in a few there were not even European Superintendents; this was revealed in Parliament when a resolution came forward in June 1875, that regulations for these locations should be framed regarding municipal matters, and native customs. ✓

The type of native community found most workable in the Colony was that instituted among the Fingoes in 1848 by Calderwood and Dugmore: European magistrates worked in conjunction with white superintendents and native headmen; communities were divided into villages of about twenty families, each paying an annual 10/- quitrent to the Government, and having the right to apply for title to their lands if they were willing to give up communal system. Stringent pass laws were enforced, and heathen rites were discountenanced. Headmen helped the magistrate in trying cases and in collecting taxes. The fact that the locations were self-supporting/....

supporting gained them the favour of the Government; but prosperity brought an alarmingly rapid growth of population, and the locations became too small. Unless the locations were properly controlled, overcrowding took place with disastrous results. ✓

problem of  
population

One of the Colonial areas will be considered in detail because it illustrates the gradual strengthening of control, and proved an experimental ground for policy later pursued in the Transkei and Tembuland, with which it had very close connections. This was the area of Glen Grey.

Legally, Glen Grey lay within the Colonial boundaries. It had been founded after the war of 1851 - 1853 when Queenstown itself was established. ✓  
Mapassa the Chief of the Tahatshu portion of the Tambookie or Tembu tribe forfeited the lands he had possessed here, as he had joined Krell and Macomo during the war. Although a part was taken for the European township of Queenstown, some of the land was set aside for loyal Tambookies - that which lay between the subsequently formed fiscal divisions of Queenstown, Dordrecht and Wodehouse, and bounded by the river Indwe. The Colony had been indirectly advanced to this river by the declaration that these Tambookies were British subjects upon British soil (Proc. 22nd Nov. 1852).  
At the same time smaller locations were set aside for Fingoes at Ockraal and Kamastone, and for Gaikas at Cathcart. ✓  
But tribal tenure, and native laws and

customs/...

customs, made the whole virtually native territory. <sup>Blue Book</sup>  
J C. Warner was made Government Agent in the Tam- <sup>'85 '87.</sup>  
bookie location, but his powers were only advisory -  
precisely those of the Agents in the Transkei, later.  
After the cattle killing of 1857, when the extra-  
Colonial natives were driven beyond the Bashee, the  
Tambookie location was isolated.

The Cape Mounted Rifles were maintained on the  
Frontier at Imperial expense, but the Colonial Office  
intended withdrawing the Defence grant, and for this  
reason, the Government tried to strengthen the Euro-  
pean element on the Border. They planned to throw  
open the Tambookie location lands for European settle-  
ment and to grant the Tembus (Tambookies), in return,  
land in the vacant Kei-Bashee area, once owned by the  
Galekas. The Gaikas of Cathcart refused an offer here,  
as they knew that Krell intended regaining the land if  
he could. But some of the Tambookies were willing;  
they entered upon a long discussion with regard to  
the land concerned; they demanded Xalanga, St. Mark's,  
most of Tsomo; and only after some dispute they re-  
ceived the greater portion of their claims. The  
jealousy existing between Matanzima (a younger  
brother of Gangelizwe) and the chieftainess Nonesi  
(great wife of Vusani) had already caused a sharp di-  
vision in the Colonial location. Warner saw that if one  
moved the other would not. Nonesi, a professed friend of  
the Government, desired to remain in the Colony, and  
arrangements were made for her to do so. Contrary  
to expectation, her followers were very numerous,  
and/...

and Matanzima, who had negotiated for the trans-Indwe lands, drew only about half the members of the location with him. Nonesi's adherents had no intention of transferring their allegiance to Matanzima, although the Government did its utmost to induce them to move. The officials would have cleared the country by force, but for positive instructions from the Imperial Government that this would not be countenanced.

Warner had to report in 1865 that the plan had failed. The Tembus (or Tambookies) not only gained vacant land in the Kei-Bashee area, but maintained their possession of the old location, in the former case under Matanzima, in the latter under Nonesi.

The colonial location was de jure crown land, The people on it were regarded by the Colonists as squatters; the Government had no intention of fostering a native society here, and the salaries of Headmen were withheld: it was announced that none but colonial law would be recognised west of the Indwe, and Nonesi and her followers were to come under this.

In 1868 the Government began to give out land on individual tenure, thus practically demonstrating that no tribal right to it was recognised. Fifteen farms in all were alienated, varying from 835 to 2370 morgen - one or two being granted to Europeans, including one for Warner, the rest to natives of an advanced type. The farms encroached on Nonesi's land.

Nonesi and her followers had been left without interference for some years; native law was in full force. Numbers of natives had moved into the location without restriction, and the petty chiefs welcomed them as additions to their strength. How to introduce law and order without force and to recover the/

the colonial land was a question for the Government.

From a political and administrative point of view these Glen Grey natives presented exactly the same problem as the Transkei after Annexation. It was complicated, however, by the grasping claims made by European farmers for the fertile Glen Grey valley. They tried to persuade the Government to adopt a policy of excluding the natives altogether. The struggle shows that the Government was firm in retaining the lands for the natives.

In 1870 the confusion regarding land claims, both European and Native, consequent upon lack of government control, resulted in the Commission of that year, consisting of E.N. Judge, James Ayliff and the surveyor, Southey, with the object of "bringing the native more immediately under the administration of colonial law".

The Commission found that four tribal divisions could be distinguished in the location, and that numbers were increasing very rapidly. They stated there were as many now as before the emigration five years ago. There was no hope of controlling them unless they were efficiently supervised by Europeans.

They advised that the location be divided. Half was to be joined to Dordrecht, half to Queenstown. A great block of European farms would be demarcated in order to divide these two sections. The native lands were to be marked out into distinct blocks of 12-16000 morgen each, and each district into communal farms of 2000 morgen. A headman was to supervise each farm and a senior headman each block, all responsible to the magistrate.

The plan was to be carried out slowly, and the European farms/...

farms in the dividing section were to be gradually acquired by the substitution of kraals there, for kraals in one or other of the native divisions. There was nothing to prevent the ultimate exclusion of all natives by refusing to renew their claims on any particular farm.

But in spite of this, or perhaps because of it, the Government adopted the recommendations and the Surveyor began the demarcation.

9th Sept.  
1870

In 1871 the division of Wodehouse was created with a magistracy at Dordrecht, under which one half of the Tambookie location fell. In 1875 the survey was completed of the 38,014 morgen: 22,253 went to individuals, 15,761 to block communal farms as suggested. The Queenstown or Glen Grey division contained 20,000 inhabitants, divided into 104 farms of between 1200 and 2000 morgen each. Eleven of these were granted to Chiefs and the rest were put under Headmen appointed by, and responsible to, the Magistrate under Colonial law.

Report of  
1874.  
(Judge of  
Queenstown)

The Queenstown magistrate, Mr. Judge, asked for a clerk for these locations, to keep him in touch with them, intending that this clerk should be supervisor over the Fingo as well as the Tambookie locations. In December 1874, Brownlee recommended that Jeffreys who had long been field-cornet at Kamastone should be appointed superintendent over the Oxkraal and Kamastone locations. This was ratified shortly afterwards. It was the outcome of the urgent letters of the magistrate, Judge, who wrote of the disgraceful state of neglect into which all the locations had fallen, with the hut tax unpaid, and the Fingo Headmen drawing government

salaries/...

salaries, which had not been withheld in the Fingo locations, but fulfilling none of their functions. "It is impossible to govern the native only through the native. The magistrate's court is open to them, but most natives do not use it. Clerks must be appointed, and a set of rules must be set up for them", he said. "We have succeeded in partially destroying the power of the Chiefs, and it is now our bounden duty to supply their place and to lead them to a higher state of civilisation." It was easily seen, however, that one Superintendent for all three locations was inadequate. Glen Grey required special supervision. |

There was constant intercourse between the Tembu Queenstown location and the Emigrant Tembus, where W.R D. Fynn was stationed as Agent (after Mr. Warner's retiring to the mission field), to be replaced by Levey in 1876. On one side of the Indwe there was, thus, an Agent with advisory powers stationed among tribal natives whose laws and customs remained untouched; on the other side of the river lay the colonial Tambookies and Fingoes under colonial law which fell away to native law, owing to neglect. And although European control thus meant nothing, it was difficult to persuade the Tambookies that the Government could not legally interfere with them, while the related tribes beyond the Indwe were free from this.

In 1875 Mr. Stanford was appointed as clerk in charge of the Tambookie location, a zealous overseer but with his work far too extended. The Magistrate at Queenstown held court for the natives once a month, as in the Wodehouse division, but they rarely

attended/...

attended.

In spite of Warner's advice that the whole location should be under one man, Stanford only supervised the Queenstown division, and another was appointed for the Dordrecht division.

The appointment of headmen over each farm in Glen Grey broke the power of the petty hereditary chiefs. "These headmen won't brook interference from the chiefs, and as they hold their authority from us, they are loyal."

In 1875 the revenue from hut tax and licence money amounted to £2,500, and one or two missions and schools indicated a slight advance, but the whole location was extremely backward compared with that of the Fingoes who showed wool return for over £5,000 (Dec. 1875) and who were demanding individual title to their farms to put an end to the land disputes.

It was unfortunate that the Queenstown magistrate had no personal influence over the Glen Grey natives. Superintendents and Headmen had most of the authority, and they were either thoroughly overworked or through neglected duty failed to exercise any sort of efficient control. The attack made upon the location inspectors (in 1879) four years later, during the reading of the Native Lands and Commonages Bill, was justified.

There was not very much doubt that any Transkeian war or movement would be reflected in the border Tambookie location - as happened in the war of 1877.

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Before discussing the war of 1877, which marks

a/-

a turning point in native policy, it will be well to look at the main principles upon which administrators had been working.

In the tribally constituted divisions of Kaffraria and Victoria, and in the partially annexed Transkeian areas, under discussion, the Government aimed at :

- (a) breaking the power of the Chiefs, and substituting that of the Government.
- (b) bringing to an end the tribal system with the idea of promoting progress; encouraging agriculture; ending superstition; freeing the individual.
- (c) Introducing civilised standards to promote better living conditions.

Sir George Grey, twenty years before administrative problems arose in the Transkei, saw the necessity of breaking the power of the chiefs before any new system could be introduced. The dominant position of every chief, the levying and acceptance of fines, the claiming by right of all confiscated property in murder or witchcraft cases, gave too much power to habitually corrupt rulers. Thus it seemed to Grey. It was in the interests of every chief to punish rather than to relieve. Grey proposed estimating the annual income of the chiefs, paying them and their Amapakati (councillors) from Government funds, and stationing magistrates among them to assist in hearing cases. "The Chief, having no financial interest in the case will soon cease to hear cases at all; and being paid by the Government, will have the strongest possible interest in maintaining

Grey to  
Molesworth  
Dec. 1855

its/...

its success". In the meantime magistrates were gradually to introduce colonial law.

Maclean of Kaffraria opposed the plan. Brownlee writing from Fort Murray (August 1855) also disagreed with Grey. He pointed<sup>out</sup> how very tenacious the natives were of their old customs, and how greatly the chiefs dreaded the passing of their power. They knew they would lose the respect of their men if there were a magistrate at their court, for they (the chiefs) would be paid dependents only and would quickly be recognised as such.

Grey exaggerated the despotic powers of the chiefs, and he underestimated the influence they possessed quite apart from their judicial power.

Laws &  
Customs  
Commission.  
185

However, Grey pressed his point, but whether or not his scheme would have been at all successful had it not been for the Cattle Killing of 1857 cannot be ascertained; more probably the threat to their power made the chiefs encourage the anti-British movement.

His system was carried out in Kaffraria with success after 1857. It was followed up in the Transkei, and whereas the Cattle Killing rendered it successful in the first instance, the 9th Kafir War and the destruction of the tribal military power made it possible in the second; these facts throw doubt upon the expediency of the whole principle as practised. "The chieftainship is a powerful force if directed to the right ends" wrote Merriman years later. "We should have made the chiefs the instruments of our will instead of trying to reduce them to the level of their subjects as Grey did.

Discussions on the location system within the Colony and the anomalous position of the Transkei beyond the Colony were interrupted by rumours of war and famine among the natives. Krelî and the Galekas lay behind these war rumours. The Galekas were the least civilised of them all. Under Krelî they continued their barbarities and superstitions unchecked, although one missionary braved this stronghold of paganism, and, if he failed to teach the tribesmen Christianity, won the confidence of the Chief, who remarked that "he and his missionary would sit alone in Heaven".

It was practically impossible for the Agent (Ayliff 1873-76 and Eustace 1876) to exert any influence: Krelî, himself, found his tribesmen unruly and restless owing to the various influences in the surrounding districts. Gun-smuggling was notorious - the arms being purchased from the Fingoes, themselves. There were constantly complaints of thefts, particularly in the Colony. Krelî at first tried to prohibit his own men crossing the boundary, but he could not deal with the innumerable native squatters and the traders in Galekaland, and began to relinquish his tribal authority. To ease the vexed question of over-crowding, he gave general permission for Galekas to enter the Colony in 1875; failing to check the raids of the younger chiefs upon Fingoland and Tembuland, he handed over his dispute with Gangelizwe to the European Magistrate (Wright-Ayliff inquiry) and had to submit to Colonel Bowker and the Frontier <sup>and</sup> Armed Mounted Police restraining his warriors against the Tembus when the sentence

was/...

was pronounced too mild.

This quarrel with the Tembus was all due to the desire for more land. The Galekas had never ceased trying to get back the whole of the Kei-Bashee area. Moreover, there was resentment at the whole policy and expansion of the Europeans. First, Idutywa and Fingoland, then Tembuland had fallen to them. The detested Fingoes had become under the British the strongest and most prosperous of the Transkei tribes. In fact, the whole policy of Britain had been to foster this servile tribe until revolt on the part of the less civilised would be rendered impossible. The Galekas swore that "they would never rest until the Fingoes were removed to some other place."

Report from  
Crouch.  
(Trader in  
Transkei)

Britian's interference had, hitherto, been motivated by the necessity of avoiding frontier wars. The F.A.M. had operated time and again in settling disputes, and the appointment of numerous Commissions had the same purpose. The result was peace under threats of further interference, which gave rise to a deep-seated resentment that made war extremely serious, when it did come.

Economic factors prepared the ground for war. There was a disastrous drought during the years 1876 and 1877, and rumours of the most fantastic kind spread rapidly, until the whole frontier was panic-stricken. Kreli, himself, was old and wise enough to realise the folly of war, but he admitted that he could no longer control his people, and he

Affairs of  
Africa.  
1877.

was/...

was ready enough to allow old race hatreds to revive, for he mistrusted the encroaching English and the servile Fingoes whom they supported.

"I do not mistrust you, Brownlee," he said, "but if my people had behaved to your father as your people behaved to my father, would you not mistrust them?"

Krell to Brownlee. Reported by Frere to Carnarvon.

In 1876 Brownlee (S.N.A.) visited the frontier to try and determine what truth there was in the rumours of war. He did not believe that war would come, for he knew of the regard the natives had for British arms. He professed himself certain of the Fingoes and as certain that, if it were not for British protection these Fingoes would be dispossessed by Krell.

S.N.A.'s Memoranda.

The Border towns, particularly Queenstown, were most alarmed - Brownlee was confronted with three petitions on his arrival. Moreover, the Colonial Tambookie location was sullen, and the illicit gun trade was said to be flourishing.

He tried to determine the feeling of the chiefs regarding land tenure and political control, for he hoped to introduce the Basutoland magisterial system in full. But he found that the power of the chiefs ~~was~~ infinitely stronger than it was in Basutoland, and all were opposed to individual ownership of land, which would break their power.

Nevertheless, he was optimistic with regard to conditions as they stood, particularly in Fingoland. "New markets", he told the merchant-minded Cape, "were being opened up for Europeans by the

creation/...

creation of the needs of civilisation there". Peace was proving the best policy. "It is argued by some that we leave the native tribes beyond the border to destroy each other. Fortunately for them, and for this Colony, this view is not generally held. Our policy of taking under our protection the weaker tribe who seeks to place themselves under us, is not only a generous policy but the best and only safe one."

Brownlee's report.

Although the panic of 1876 died down, the feeling of insecurity remained; the Galekas continued to prepare for war against the Fingoes.

In August 1877, a petty quarrel at a Fingo beer drink led to the death of a Galeka, which was followed by fierce reprisals and armed raids. Detachments of the Frontier Armed and Mounted Police were despatched, and in October the Galekas, hitherto waging a tribal war against the Fingoes, attacked Lieutenant Griffith with the F.A.M. The war had begun. The trouble had not been dealt with seriously in the early stages. Frere could write to Carnarvon as late as September 11th, stating that "all was quiet, although plundering still went on", and the F.A.M. refused to take any definite action while there was hope that the magistrates might settle the dispute. Now, October, it had to be dealt with as a military problem. Frere issued a proclamation deposing Krelt for breaking faith with the Government, and declared his country forfeit.

Affairs of Africa.  
Imp. B.B.

It was clear that there was a deep-seated understanding among the natives long before the war broke out. The Government hoped to be able to

be/...

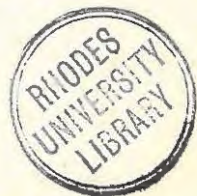
be able to count on more Trankseian auxiliaries. Scott from Mganduli raised a force - "the people here seem to see the wisdom of keeping the Government's friendship" - but the other Tembus at first refused to take up arms. They waited for the word of Gangelizwe who fortunately declared against the Galekas. Dalasile firmly refused to supply any men, and preferred to pay the fine levied by Cumming for disobeying orders.

The Emigrant Tembus were in full sympathy with the Galekas, but did not rise, although Levey wrote of "unrest and strain", and there was some evidence that Stokwe was in league with the rebels. He gave refuge to the sons of Sandile (rebel colonial chief) on the pretext of his relationship with that chief.

Blue Book  
1878

After the October-November rising had been partially subdued, it broke out with renewed force in December. Imperial and Colonial troops were put in the field and auxiliary corps of Fingoes and Galekas were raised. The area of disturbance was enlarged by the rising of many of the Rarabe clans, and by the more disastrous rising of the Gaikas in Sandile's location in the Colony, (22nd December 1877), when the Galekas crossed the Colonial boundary. On the 7th February the decisive battle of Kentani, took place. Krell attempted no further resistance, but retreated across the Bashee, and Galekaland was taken by conquest. It was months before the frontier was reported peaceful again. Coming with the drought and the failure of the crops the war wrought havoc throughout Galekaland and Fingoland, and brought complete social disorganisation in its train.

It/...



It had very important consequences for native policy. For the first time the Cape Parliament roused itself to face responsibilities beyond the Kei. The laissez-faire policy was at an end. Unfortunately, too rapid an attempt at reorganisation followed. Even the more valuable aspect of the previous policy tended to be overlooked. To counteract this came a strong hint from the Government Opposition that it might be wiser for the Cape to abandon all claims beyond the Kei, and leave the area to the Imperial Authorities. Doubt was thrown upon the wisdom of control through Magistrates - and was it safe to allow so much independence to those officials? There was a weakness in the dual control of chief and magistrate. Elliot, who in August 1877 had succeeded Wright as Chief Magistrate of Tembuland was still of secondary importance in the eyes of the natives, beside Gangelizwe; the sagacity of the old chief alone had prevented the whole of Tembu rising. In Emigrant Tembuland it was not Levey, but lack of combined action that had prevented rebellion. While in the Gaika location and in Griqualand East, the Magistrate had not proved effective enough to prevent a rising when the chiefs encouraged it.

The difficulties attendant upon supporting one native tribe at the cost of another was likewise realised. Britain's pro-Fingo policy had threatened European authority throughout the Territories. The third point which the war revealed was the fundamental differences between European and Native

society/...

society, and the complications involved in grafting one culture with another. The principles of the latter were only elucidated by the Native Laws and Customs Commission, 1883.

After the war a redivision of land took place. The defeated Galekas were ~~disposed~~; part of their territory was given to loyal Gaikas, who were drafted in from the Colony on the old "colonising" principle; part was reserved for European settlement, and in the extreme Eastern section certain Galekas who had surrendered were permitted to settle.

Others of this unfortunate tribe were driven into Fingoland where they took service under the Fingoos - a most bitter reverse.

Blue Book  
179  
Report of  
S.N.A.

Lesser Tembu tribes living North of the Emigrant Tembus near Maxonga's Hoek (Gongubela, Stokwe Tyali and Tini Macomo) who had rebelled were deprived of their country in the same way as the Galekas, and their land seized for European settlement.

The Gaika removal from the Colony to Galekaland was part of the Government policy to safeguard Extra-Colonial areas, and to clear the Colony itself of some of its natives. It was criticised heavily. In the case of the Gaikas no distinction was made between loyal and rebel when the war ended, and "military and political expediency" combined with the segregation principle, were used to cover European occupation of Kaffrarian lands (within the Colony). However, as Blyth pointed out, it was essential to have the depopulated Galekaland occupied as quickly as possible, "if it was not

Press.  
August 1879

to/...

to be an Alsatia". And the removal from the Colony was carried out with great efficiency by Wright and Maclean, although there were complaints of a minor character from certain natives who failed to transport all their belongings.

Their new country was superior to that which they had left and promised good crops. Food difficulties were overcome by the Government supplying mealies and seed mealies in bulk.

Blyth's  
Report  
4/11/78

The whole immigration was a difficult piece of administrative work; 7,459 souls moved in all, and over 16,000 livestock. The country was divided up into four locations under one Magistrate, stationed at Kentani. He worked through headmen, ten in the whole of Galekaland, and was, himself, subordinate to Blyth, who had been appointed Chief Magistrate of the Transkei.

The numerous administrative changes after the war took the form of the centralising of magisterial power by the amalgamation of smaller districts. What had been known as Fingoland, comprising the districts of Ngamakwe, Tsomo, Butterworth, became part of the chief magistracy of the Transkei, which included Idutywa and, in addition, Galekaland in two divisions, Kentani and Willowvale. The latter two districts were not de jure on the same level as the others, as their formal annexation had not been completed. The Annexation Act for Fingoland and Idutywa had been passed in 1877, although it came into force only with the Governor's proclamation of October 1879.

Blyth, who had been appointed in 1876 as Chief Magistrate in Griqualand East, returned as Chief Magistrate of the Transkei in September 1878.

At/....

At the same time, the Chief Magistracy of Tembuland was created. It comprised the districts of Tembuland proper, namely, Engcobo, Mqanduli, Umtata and Emjanyana: Emigrant Tembuland, namely, Xalanga and Southeyville: and Bomvanaland (magistracy being at Elliotdale) ceded in 1878 by Moni who had hitherto been subject to Kreli. Major Elliot was appointed Chief Magistrate of Tembuland in December 1878.

As early as 1876, when Probart's Commission had brought Tembuland to public notice, the House of Assembly <sup>had</sup> passed a Resolution that "it was expedient that Tembuland should be annexed to the Colony, and a Bill introduced to effect this". But no action was taken to further the resolution. The War delayed action for some years, until in 1880 an Annexation Act was passed by the Cape Government, but failed to get the sanction of the Colonial Office, which was distrustful of colonial policy after the 1877-78 outbreak.

Tembuland continued, therefore, to be ruled by the Governor of the Cape Colony under a special commission whereby he was appointed "Governor of certain Territories, commonly known as Tembuland, Emigrant Tembuland, Bomvanaland and Galekaland, now part of Her Majesty's dominions." The last-named came under the Transkeian magistracy but was included in this post-war proclamation. Nevertheless, Elliot was appointed by the S.N.A. and the Governor of the Cape, and was ultimately responsible to the Parliament of the Cape whence administration funds were supplied. The area was taxed from July 1879, (the war having delayed taxation for a year). But the

new/...

new regulations issued for the government of the Transkei were not introduced into Tembuland. Nor were other proclamations, notably the Disarmament Proclamation, carried out in this magistracy, except in Emigrant Tembuland.

In the magistracy of the Transkei, reorganisation went on apace, fortunately under Blyth, whose return to Fingoland explains why changes and unpopular ordinances were accepted favourably by the Fingoes.

The Government now began to consider the chief factors motivating against European control - namely, tribal authority, communal lands and social customs. The <sup>Legislators</sup> condemned control through headmen. It tended to resurrect petty chieftainship, and it preserved native law; headmen and native messengers enriched themselves from the fines collected: they made themselves chief authorities in allocating lands to tribal members.

A set of new regulations was issued. The Secretary for Native Affairs, James Ayliff, was wise enough to tour the Territory and, with the magistrates, to conduct a series of meetings where these regulations were explained. In addition, the land system was discussed, and certain proposals laid before the headmen regarding alterations in land tenure.

The new regulations were based upon suggestions made by Blyth and others years before:

Blyth's  
Letters.

- i. No headman was to hear or decide any case.
- ii. The Imisila system was done away with, and certain policemen were to be engaged at a fixed salary - no longer paid out of the fines they collected
- iii. Regarding Court Procedure, in all cases 10/- was to be deposited before the magistrate by the

plaintiff/...

plaintiff, and after the case had been heard, it was decided who paid.

- iv. All fines in criminal cases were to go to the Government.
- v. All serious cases were to be given a preliminary hearing by the local Magistrate, and then sent on to the Chief Magistrate. If advisable, the Resident Magistrate was to be permitted to hear the case.
- vi. All parties had the right of appeal to the Chief Magistrate in cases over £2.

Blyth stated that the fact that all the districts of the Transkei were not yet formally annexed motivated against the punishment of severe crimes, when Cape criminal law could advisably be enforced, e.g. deportation or long imprisonment and road labour might be beneficial, whereas in Native Law, this was unknown.

Nevertheless, it was agreed that the new regulations accomplished a long-felt need of reform; the power of the petty headmen was cut down; it stopped the prolonged litigation which they found so gratifying to their self-importance; the whole district was brought more directly under the Magistrate who was gradually to introduce colonial law.

All these regulations were embodied in the promulgations of 1879 (to be enforced from October of that year). They were designedly left vague: "Kafir Law was maintained, but an opportunity left for the introduction of Colonial Law", as recommended by Blyth.

Letters  
N.A. 2  
85

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It became the practice, too, to have a jury of headmen, or of the most responsible tribal members, to listen to any case and put any question, although the Magistrate, himself, passed judgment.

The Chief Magistrate was in fact a court of appeal, administering a law partly codified, like that of Basutoland. In addition, he was the chief administrative officer, responsible for the actions of his assistant Magistrates and for the entire revenue of the country- "The revenue will pass through his hands, for which he will account direct to the Treasury and the Auditor General".

Blyth.  
Blue Book.  
1880.

In line with this systematic reorganisation came the abolition of the objectionable practice of the Intonjana and Abaqueta ceremonies, although the rite of circumcision itself was not interfered with. The breakdown of the traditional customs was, however, a very slow process, and undoubtedly the prohibited ceremonies were practised in secret. The impossibility of altering a social attitude in a few years was most clearly seen in Galekaland. Here the Transkeian Regulations were enforced; and in Willowvale the Magistrate had cause to arrest a European, one Shadforth Taylor, who was accused of taking part in one of the native ritual dances. On appeal, it was found that in an unannexed area no such conviction could be made. The sentence was reversed, and was followed by an outburst of native ceremonial practices, many of which had for months been subversively encouraged by the headmen who felt it was a means of restoring the old tribal society for which they stood.

The instance illustrated at the same time the

danger/  
.../..

danger of the anomalous legal position of Galekaland.

The whole Transkei was at a very difficult stage, showing every sign of ill-grafting. The united districts were, unhappily, at varying stages of civilisation. Fingoland was far in advance of Idutywa; and Galekaland (except for the new Gaika area) was hardly touched by western ideas.

Lobola was still a corner-stone of the social system, and the magistrates had constant cases of redress and demand for dissolution of the marriage contract brought before the courts. It was clear that the originally sound practice of lobola was being constantly abused, but the magistrates were powerless to check this.

Blythwood, Fingoland's Industrial School was reopened, and the mission schools began again after the war. In some parts the headmen showed enthusiasm, and they began to institute schools in their own locations, paying £10 each per annum which, supplemented by the Government's £20, sufficed for the schoolmaster's salary. Unfortunately, although many paid the school fees, they took no pains to send their children, once the novelty had worn off. The fault lay partly in the unwise type of education offered. The Missions taught reading, writing and elementary figures and English History (!) and usually neglected the technical side and the very essential principles of agriculture. Charles Levey urged persistently the re-organisation of the school syllabus, and scarcely sent in a single annual report without stressing this aspect. Blythwood, St. Mark's and, to a smaller extent, Clarkebury were the only centres

Nqamakwe  
Report.

Tsomo  
Report.

where/...

where any industrial training was given; gradually public opinion was roused by the subject being brought into the open after the war. Frere, the Governor, was urgent in this respect - "the time has come for us to decide whether they, the natives, are to be helots or a free labouring class." He went on to urge that the work of the missions be brought into line with Government policy and that "industrial training and loyalty to the state" be emphasised in in Educational practice. Thus the officials were realising the interaction between political and social changes. Merriman, facing this problem, at the same time spoke of the "necessity of finding some outlet for the vigorous native races." "It was hoped they might serve the white man, now that their independence was destroyed. However, ten years were to pass before the natives were swept into Industry, ten years of difficult adjustment.

June 22nd  
1878-Press

One of the main post-war problems was that of Disarmament. During the war, in a panic of self-preservation, Frere passed the Disarmament Act which came into force in 1879. It proved to be one of the most ill-considered pieces of legislation ever carried out in or on the borders of the Colony. ✓

It was chiefly because of the transitional stage of the Transkei that a measure such as the Disarmament Act was dangerous in the extreme. The Fingoes, with the help of the Government had won the war; they had since tolerated the abolition by Decree of many of their old customs; they had been asked to contribute an additional sum to the Treasury and, thus, suffered double taxation; and they had had to recognise the new and vexatious Vagrancy Law, passed for the Colony,

Blue Book  
1879

and/...

and its annexed areas. Now they had to surrender their arms - the arms with which they had defeated the enemies of the British. Blyth's persuasions induced them to do so quietly, and guns and other weapons of war to the value of £13,972. 2. 2. were handed in within a remarkably short space of time. In only one case had Blyth to threaten and punish. Money compensation was promised, but was not sent for some months. More serious than this, the Government had stated that the Tembus would likewise be disarmed, but they were left in possession of their arms, and the Fingoes found themselves defenceless beside their worst enemies. ✓

The Fingo levy and the volunteer bands had been demobilised, and only 200 Cape Mounted Rifles and 100 Native militia remained to patrol the Kei- Bashee area. "I anticipate no difficulty" wrote Blyth in November 1878, and, comparatively, there was none, but a brooding discontent and restlessness remained. "We have disarmed our friends and left them open to attack from their enemies". The Fingoes began to feel that the Government had broken faith with them, and the feeling quickly spread to the border locations of the Colony. ✓

Blue Book.  
179  
Nov. 1878

Shortly after this, Blyth reported that some confidence had been restored by two companies of Fingoes being armed and enrolled as militia, and a depôt of arms being established in every district, but he still urged the Government, "above all to carry out disarmament among the other races. This was not done except in Griqualand East, and in the Fingo and Tembu locations on the Colonial borders,

Blue Book  
1880

April 1879  
N.A. 2  
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and/...

and by Levey at Southeyville and Xalanga in Emigrant Tembuland. These two districts, Southeyville and Xalanga, were <sup>new</sup> judicial divisions, formed as part of the post-war settlement.

Charles Levey, who had borne the title of Tembu Agent, became Magistrate of Southeyville, and in July 1878 W.G. Cumming became Assistant Magistrate at Xalanga. Closer control was being assumed over these districts. They were to contribute towards the revenue of the Colony by paying a hut tax, and the Government hoped to annex them with Tembuland - a matter which was deferred, owing to Her Majesty's hesitation, until after 1884.

Up to this time, fines, licences and timber cutters' fees had gone to the chiefs. That was to end in July 1879, when the first hut tax was due to be collected. Judicially the chiefs retained a lot of their power. They heard all cases in the first instance, unless the natives preferred to bring them to the office. But the headmen and councillors assisted the Magistrate at his court - they gave opinions or questioned the parties in the case: "this supplied a want they had lost as it was identical with the hearing of cases in the kraal of a chief". In addition the chiefs were given the right of appeal against the Magistrate's decision to the Secretary for Native Affairs.

Ayliff's  
tour.

S.N.A. to Mag.  
Transkei and  
Tembuland.

They, the Emigrant Tembus, were obliged to come under the Disarmament Act: "the Government", said Ayliff, "gave the word for war and, if necessary should supply the arms". This did not satisfy the Emigrant Tembu chiefs. The encroaching hand of the Government was seen in all directions; military independence was gone; magistrates and officials were increased; heavy taxes were imposed; and advancing

civilisation did not compensate for this. To the chiefs civilisation meant no more than destruction of the old customs and government. Tribal superstitions were still the main hindrance to advance and "the influence of the chiefs tend exactly the same way, as they know that civilisation is fatal to their power".

Cumming's Report.

From the European point of view progress was definite. Levey had done wonders since his appointment. The Agricultural Society proved a great success; far more land was under cultivation and wheat was now grown in quantities. Levey was as insistent as Blyth upon the necessity of destroying the tribal communal system of land tenure. He recommended that small native townships should be created in each locality where irrigation works could be carried out without difficulty, and, in addition, "at least ten acres should be given to men who are willing and able to erect a suitable house". Such a town, he went on to suggest, might be governed by native municipal committees under the guidance of the magistrates, "It would form a valuable centre round which a native aristocracy might collect, and the rural aristocracy learn the arts of peace."

Blue-Book Report.

But Cumming found that the only really progressive members of his district in Emigrant Tembuland were a few Tembas, who had come from the Colony and learnt under Warner. They had been stationed on farms, and the right of occupation assured to them as long as they were in the country. Hence they were virtually independent of the chiefs.

The uneasiness in the district throughout 1879 was due to the growing influence of Stokwe Tzali who, indeed, had reasonable grounds for discontent over disarmament; as Cumming wrote "arms have been con-

Cumming from Xalanga

sidered the insignia of manhood, and to part with them or to be deprived of them is an indelible disgrace."

In spite of this, the hut tax was collected very successfully, the chiefs themselves aiding in the taking of the census. It apparently also stimulated the younger men into seeking work in the Colony. "Hundreds of young men have been sent to the Colony by their families to pay the hut tax," stated Cumming, and added that "this would get them out of the groove and eradicate old habits."

Southey-  
ville  
Report.

Cumming.

Levey was equally convinced that contact with the Colony and the development of the native as a labour source was the only solution to the problem of native control and development. He went as far as compiling a list of those who had learnt a trade in the Colony, "but this does not represent one half of the good being done in this way", as, after a few months, they were capable of proving excellent labourers in European employ.

In Tembuland proper, the chiefs retained more authority than in Emigrant Tembuland, because of the strong character of Gangelizwe and of Dalasile. The former was aging but influential, whilst the latter was vigorously independent. From the first he never intended submitting to the British Government, nor ever drew the £100 granted to him by the terms of the cession of Tembuland in 1876. At that date, it was agreed that the hut tax would commence from 1878, but this was delayed owing to the war. Dalasile had hoped to make it a war of independence, and he would have joined Krelli if the Galekas had had any likelihood of success. His passive resistance to the

Elliot's  
Report.

✓

Stanford's  
Report from  
Engcobo

British during the war was punished fruitlessly, for he continued his insolence in 1878 by refusing to meet Ayliff when the S.N.A. toured the country in that year.

Two matters were stressed at the great general meeting held on that occasion, with Ayliff, Elliot and the Assistant Magistrates present. \*

- i. The need for the payment of the Hut Tax. |
- ii. The need for progressive agriculture.

The state of the country was not good. Imported cattle, the spoils of war, had introduced the disastrous lung-sickness, yet the Tembus refused to abandon pastoral in favour of agricultural farming. They would not take an interest in intensive cultivation; "the idea that the land belongs to the chief and that tribal members may be deprived of it at any time is very prejudicial", wrote the Magistrate. ✓

A demand for the introduction of individual tenure was made by magistrates for administrative and judicial reasons.

Meantime, the hut tax was collected in 1880. From Engcobo, £1,980 was realised without very much trouble. "Dalasile would not at first pay", but his influence was apparently less than before, because three of his sub-chiefs did so.

When the question of Disarmament arose, Elliot warned the Governor: "there will be opposition to disarmament when it takes place here; a few may give in if Gangelizwe does so, but Dalasile is really more important, and the Zulu War has made them restless". Here lay the key to a great deal of trouble in the Transkei in 1879. ✓

The/...

The natives had always watched with intense interest native policy elsewhere, in or beyond the Colony. Langalibalele's rebellion some time before had stirred the Transkei; the controversy regarding his treatment was followed, and Cape native resentment permeated the Transkei via Griqualand East. Now the Zulu War was the same: "Cetewayo has been the prime mover of the disturbance in the Transkei; this has been abundantly clear for two years past."

Report for  
May 1879  
for Fingo-  
land: Blyth's  
Remarks on  
meeting with  
Gangelizwe  
1878.

Although disarmament in Tembuland was considered, the Government fortunately took no steps to enforce it yet, partly because the future of Tembuland was not yet decided.

In May 1879, Blyth reported that in the Chief Magistracy of the Transkei ill-feeling over Disarmament had entirely subsided, and his opinion was that European agitators from the Colony had been largely responsible, even for the original discontent among the natives. For Disarmament had become a party question, and there began the subordination of native interests to the self-interest of politicians.

As was to be expected, the Galeka-Fingo war, 1877-1878, affected the border locations of Glen Grey in the Queenstown division. Unrest had been felt there for several years. In 1876 during the general war-scare on the border, the most general belief was that the Tembus would attack Queenstown and Dordrecht. In 1877 this was repeated. The natives appeared to be providing themselves with arms and ammunition and an assegai "factory" had been set up in Gongubela's (son of Mopassa) division of the location. Shortly

G. 33  
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after/...

after the outbreak of the Kafir War, this section of the Tambookie location revolted. The ready despatch of border militia prevented the spread of the disaffection, in fact many Fingoes and some of the Tambookies were willing to help the Government, and in April 1878, Gongubela surrendered to Bentley and Sydsiff, while Umfanta (his ally) gave up his arms to Mr Driver. The land was confiscated under instructions from Hemming, the Civil Commissioner of Queenstown.

The revolt here was another instance of Government failure. The location was too near the frontier one of the Emigrant Tembus. The subordination of chiefs by headmen and the gradual pressure upon the land, and the belief that the Europeans intended ultimately to seize the whole had caused the revolt. The neighbouring Fingoes of Oxkraal and Kemastone, alive to their own interests, did not revolt nor attempt to enter the war, although they showed sympathy towards the Extra-Colonial Fingoes.

After the war, the Disarmament Act covered both the Tambookie and Fingo locations. The indignation of the latter was manifested in heated meetings and in petitions sent to the House of Assembly - that of Petrus Mahonga and Frederick Tabata being the most notable in their professions of "ancient loyalty" and in their consequent sense of injustice.

A. 32 '79  
A. 33 '79

With regard to the Queenstown locations, some depopulated, some resentful and restless, and all with their confidence in the Government shaken, what policy was to be pursued?

No/...

No change was made in the Fingo locations; the principles of administration had proved satisfactory there, i.e. headmen, European supervision, survey and (gradually) individual title. In the Tambookie areas, Gongubela's lands were sold by auction to Europeans. (Act 14, 1878) and the remnants of both Gongubela's and Mapassa's tribes were settled on farms previously owned by the rebel Umfanta. In March, 1879, the Tambookie location was created a magisterial division of Glen Grey. It was still divided for fiscal purposes between Queenstown and Dordrecht. In May, C.H. Driver, of long experience here, was appointed Resident Magistrate, which gave promise of better control and more sympathetic handling, but it was left undecided as to whether full colonial law should be forced upon them which, according to the letter of the law, should have taken place. The Government stated that its ultimate aim here was "the destruction of native customs and native authority", while the colonists urged more marked segregation, in the hope of themselves, occupying the farming area of Glen Grey.

It was commonly argued that the native areas, both within and without the Colony, were a constant drain upon the resources of the Colony, these areas being unproductive in themselves. This was exaggerated. Heavy expenditure came only with the war, and the war through mismanagement or ill-adapted methods; otherwise the hut tax levied in the locations and in Fingoland and Idutywa and, from 1879, in Tembuland and Emigrant Tembuland was more than enough to pay for the magistrates and the petty headmen. The Government spent practically

nothing/...

nothing upon ameliorating influences in the Transkei; ✓  
they contributed nothing to the establishment of Blyths-  
wood; the education grant was very small, and the  
Fingoes themselves paid for their roads, bridges and  
irrigation schemes. In the areas where the hut tax  
was not paid, the salaries of the Chiefs and Agents  
were very low and out of all proportion to the import-  
ance of those persons in maintaining peace.

The Magistrates in the native areas were badly  
paid, and in many cases starved of the common necessi-  
ties of life. Blyth had the utmost difficulty in get- ✓  
ting fair treatment for his subordinates. They had to  
erect their own houses, or huts, with a monthly allow- Letter fr  
ance of £4 to do so (vide the case of Mr. King), or Blyth to  
granted wooden houses transported from Cape Town, S.N.A.  
(in the case of Mr. Pattle) which proved very dif- 7.7.79  
ficult to erect without trained carpenters, and  
very fragile against Transkeian rains. What sort  
of example was this to natives who were to be intro-  
duced to civilisation?

Similarly, the state of the magistrates' Letters  
offices and the lack of proper equipment testi- 22.7.79  
fied to neglect of the central government. re  
Nqamakwe

The result was cattle speculating and farm-  
ing on the part of some of the lesser magistrates.  
"Of course, a prohibition against this", Hemming Blue Book  
bitterly remarked, "would render some of the places '83  
not worth having to the present holders". It had Hemming.  
been a common saying among the Kafirs, "a man  
comes in on a lean horse, says he is a magistrate,  
and in two years he is a rich man".

This by no means applied to all the officials.  
The majority were scrupulous and devoted workers, and

it was easy to be misled in opinion by Parliament and the press which creëd down the magistrates from a desire to criticise government policy.

Blyth was quick to detect deficiency in any of his subordinates, and, while temporarily bolstering up their authority before the natives, to get inefficient magistrates removed. The case of Merriman was a case in point; here Blyth remarked upon "a certain slackness in the office work, and the natives took advantage of this"; in addition, Merriman left too much work to his subordinate, Cumming, a far better man. The effect had been the assumption of too much power by headmen and petty chiefs, and native complaints which were the best groundwork for rebellion. Regarding allocation of lands, the headmen said "the land belonged to them", but as Blyth pointed out "the magistrate is the head of the country and it is all government ground." He was able to silence the native complaints during the year 1879, by holding frequent meetings at Idutywa, and in 1880 Mr. Pattle took Merriman's place, the latter being given an appointment at Butterworth, under the closest supervision of Blyth.

The legal position of Fingoland, Idutywa and Griqualand East had been made clear by the Proclamation of October 1879, wherein Government Regulations were issued, based upon the Basutoland regulations. ✓

The Territories were not governed as part of Cape Colony; the Governor ruled by Proclamation, executive power lay with the Secretary for Native Affairs, who drew upon the Cape Treasury for funds.

May report  
1879  
N.A. 2  
85

Paper relating to the Transkei.  
Jan. G. 59  
'84

Many/...

Many urged, with Scanlen, that the time had come for more definite Parliamentary control. Orpen had opposed the Annexation of Fingoland on the grounds that Government by Proclamation was inadvisable. A large party believed that the Cape should not accept any responsibility beyond the Kei. "It is not a case of abandoning the Transkei to anarchy but leaving it as a second India to the Imperial Government."

August 1879  
in  
Parliament

The case of the Territories was closely connected with the Confederation schemes between 1876 and 1880, schemes which the Imperial authorities did not cease to cherish in spite of the failure of the proposed conferences and of the Transvaal annexation. With the disaster of the Zulu war, the Imperial Colonial office was not eager to retain under its own control more territory than was absolutely necessary, and hoped that a Confederated South Africa would shoulder the burden of the native territories. Yet, possibly with justification, it had very little confidence in the present Cape administration: "In annexing land, the Imperial Government must feel that the natives are under a system of which the Imperial Government can approve." They preferred to leave matters in the hands of their appointed Governor until such a system could be drawn up.

G. 59  
'84 Papers.

Mr. Orpen's Bill of August 12th 1879 shows the feeling in Parliament towards just this authority. He stated "that primary authority and jurisdiction other than that of the High Commissioner must be discontinued in areas outside the Colony". It was directed against Governor, Secretary for Native Affairs

and/...

and members of the executive; but as the powers of the High Commissioner were not well defined, it was difficult to check his actions. Orpen went on to condemn native policy: "Since responsible government, the Colony had pursued a grasping policy. Six years ago there were four Agents, political not magisterial, no revenue, and the native chiefs were still supreme. Now, in 1879, there are twenty-five magistrates, thirty interpreters, five hundred police and headmen and a paid Fingo militia. The revenue is more than £30,000 per annum and less than expenditure... If the Imperial Government does not annex the area, then it must put us in a position to do so..... greater uniformity, and, at least, some definite policy such as that in Basutoland must be arrived at." ✓

In July 1880 J.X. Merriman, on behalf of Scanlen, moved "that a Commission be appointed to inquire into Native laws and customs." It was to be the basis on which a legal code for the Transkei might be drawn up. This was agreed to by the Assembly a few days later. ✓ During the same session the Bill for the annexation of Tembuland and Galekaland to the Cape was passed and reserved for Her Majesty's assent. But the Imperial Government insisted that the proposed Penal Code should be included in the Act of Annexation of Tembuland, and, in addition, that a provision be inserted regarding the ultimate parliamentary representation for natives. Meantime, four of the more influential Emigrant Tembu chiefs submitted an elaborate petition to Parliament, protesting against any extension of British authority. This last had no influence, but in view of the Imperial disapproval, annexation had to be deferred, and the

whole/...

whole matter was complicated and altered by the Rebellion in Tembuland at the end of 1880.

This Rebellion was serious, and the obvious consequence of post-war policy. Disarmament and Europeanisation had apparently failed; the Kafir War had not ended war. The disaffection may be traced to Basutoland, but the revolt began in the now fully annexed area of Griqualand East with the murder of three European officials. It spread to Emigrant Tembuland, where Stokwe and Gecelo revolted, and finally to the Tambookie location where the old firebrand Gongubela joined the rebels. The feeling against the Government spread further, but armed resistance to the British was comparatively limited.

In renewing the circumstances leading up to the rebellion, it is clear that the hastiness of legislation after the war of 1878 was the chief cause; the Disarmament Act had stirred them all; the Pass Act had restricted movements within and beyond the Colony; the Branding Act had been an attempt to check cattle thieving but had been resented by the natives; Fingoland, Idutywa and East Griqualand Annexation Act had been passed: Tembuland, Galekaland and Bomvanaland Annexation Bill had been before Parliament. The division of Galekaland with Willowvale and Kentani and the allocation of lands to colonial Gaikas had been carried out and involved closer supervision, while land there had been set aside for Europeans (but not occupied), and Fingoes forbidden to purchase land at auctions held there. Proposals regarding the village system/...

system and the introduction of individual title alarmed the chiefs.

Disarmament was used as a rallying cry, but far more was behind it. In the districts of Tsomo, Butterworth, Idutywa and Nqamakwe there was no rising but the Tsomo <sup>magistrate</sup> found the Fingoes refusing to enlist unless given full possession of their guns; while in the other three there was suspicion and, if anything, a desire to aid the rebels. In the newly formed district of Kentani and Willowvale the Galekas had either seen or felt the effect of rebellion too soon before, and they did not rise. Dalasile's revolt in Engcebo, in Tembuland, was the most dangerous.

Reports  
'81.  
Blue Book

In October ill-feeling had come to a head, when in Qumbu, Griqualand East, Umhlonhlo murdered the Magistrate, Hope, and two other Europeans, Henman and Warrene. This gave the signal for rebellion in Tembuland also. On Elliot's advice most of the outlying districts in Tembuland were abandoned, and the Europeans gathered to defend Umtata. Levey tried to hold Southeyville but had to be relieved, and on abandonment, the offices were burnt by the rebels.

Upon the word of Gangelizwe really depended whether the rebellion would become general or not; and he, fortunately, declared in favour of the Government. This made possible the suppression of the rebels by February 1881, but only after most of the magisterial centres of in Tembuland had been looted, much of Emigrant Tembuland depopulated, and Captain Blak<sup>e</sup>way and van Linsingen at the head of the Fingo Militia had lost their lives.

The/...

The Tembus expected the Fingoes to join them, but the Fingoes remained loyal "government people", in spite of their early discontent. There were rumours that Kreli and his son Sigcau would rise, but Blyth sent 250 men to the Bashee, "which had a quietening effect."

The revolt seems to have been directed chiefly against the magistrates and government. "It was as much a war of the people as of the chiefs", said Stanford. "Traders and missionaries were useful, but the magistrates were too often oppressive or indicative of change." As Umhlohlo said at the death of Mr Hope, "I am not fighting traders or missionaries; I am at war with the magistrates only."

W.E. Stanford's Report.

Blyth's Report. 1880.

Levey agreed with Blyth that it was "Kafir chieftainship against civilised government." As the old Fingo warned the English, "Nongquause's prophecy is not dead". Apparently there had been secret plotting for some time: "natives continued to bring cases to the office, but more for the purpose of misleading the Government than anything else"; and the agricultural activity that was manifested had the same purpose. Blyth had noted the rebellious feeling with alarm. "I tried to combat the growing distrust, and pressed upon the magistrates the importance of using headmen as jury, and of governing the people through themselves". Many of the new laws had been passed without consulting the natives whom they concerned or even their magistrates, which was directly contrary to Blyth's own methods.

Cape Times.

Blue Book on Native Affairs. '81.

Hemming of Queenstown also took pains to find out the real causes of the rebellion - for the attempt

Blue Book. 1883

on the lives of the magistrates was the most severe indictment against government policy. He found that in certain areas it was due to the unwise support of Fingo land claims and Fingo settlement by the officials at the cost of the security of the rightful inhabitants. Speaking of Emigrant Tembuland, he said, "Fingoes and strangers were encouraged to come into the country by officials; at first, these Fingoes shared with the Tambookies, then each portioned off a piece of land, made a claim, and crowded out the Tambookies. The aim of the officials seems to have been to build up a group of Fingoes who should form a power if the Tembus should rise - a fact gleaned from missionaries, natives and others. "We wanted to get rid of the Fingoes and of the officials who were the oppressors," said the natives. Squatter colonies of these people, Fingoes, were to be found everywhere, and Hemming openly asserted that the Tembus were "driven to war to maintain their land". This was the case with Gecelo, who was known to be friendly to Europeans; but it was not the case in Tembuland proper.

Cape Times  
21 Dec.  
1882

Letter to  
Lloyd at  
Dordrecht  
from six  
farmers.

After the Rebellion, Elliot resumed his duties in Tembuland, and Levey in Emigrant Tembuland. It was difficult to decide on the land question. Gangelizwe's ideas were pertinent. He agreed that "since certain portions of the tribe had gone into rebellion, it was right to punish them, but he hoped that confiscation would not be extended into Tembuland, for it not only meant loss of land, but over-crowding elsewhere." So although the rebels lost their land, nearly three-quarters of them were relocated, in spite of the righteous and covetous protests of the colonists.

S.N.A. to  
Premier.

In Emigrant Tembuland, Levey made it his principle "that there should be no reoccupation of former

gardens/...

gardens or kraals, but that the unity of the clans was to be broken as much as possible so as to place a dangerous man where he would have no power of attaching a large body of men to him." Loyal natives only were allowed to reoccupy their old kraals. These immediate steps of Levey's were open to alteration by the Government.

In Tembuland the revolt ended in February 1881, but the military patrolling of the area lasted far longer. Many natives were destitute, but still numbers looked forward to being rid of the white man's rule, and some of the loyal old natives told Elliot that "the <sup>time</sup> was yet to come."

Blue Book  
1882.

The empty lands at Maxanga's Hoek and Xalanga and Southeyville were a temptation to natives and Europeans alike. Several of the latter had had land granted to them by Gangelizwe, and now they demanded title from the British Government.

Meantime, there was a change in district administration in Emigrant Tembuland; the magistracy of St. Mark's was created and placed under R.W. Stanford, one of the most vigorous of the officials.

Magisterial opinion was that the annexation should be put through as quickly as possible, and that the land system and administration should be permanently reorganised, as many of the natives now seemed to favour individual tenure, especially where tribal authority had been weakened.

Within the colonial borders, natives from thirty-five farms in Glen Grey had joined the rebellion; fortunately the majority awaited events, and when the rebels ~~with~~ aided by Stokwe were repulsed in their attack on the new offices at Cacadu (Lady Frere) the rest of the location declared in favour of the Government.

Driver's  
Report.

The lands of the rebels were confiscated and for nearly a year remained vacant. Then the natives began drifting back, until by 1884 H.A. Jenner (who had succeeded Driver) reported that the district was overcrowded. Here was another result of the laissez-faire policy of the central administration. Between 1878 and 1886 practically no land in this district had been permanently alienated - except one or two farms and a tract to the Indwe Railway Company. With what right, the European farmers asked, did the Tambookies occupy the Glen Grey lands? Was the Government going to make a stand in declaring it a native area or could Europeans claim the lands? Permanent title for the natives could alone secure for them the territory, otherwise, not only Glen Grey but Emigrant Tembuland, too, would ultimately fall to the more pressing Europeans.

In 1881 the Secretary for Native Affairs, Sauer, visited the Territories, and thus inaugurated the system of open discussion between the central government and the chiefs. It was recognised that the rebellion had been helped on by so many unexpected changes, effected by the Ministry without reference to the natives themselves. On November 9th 1881, the Magistrates of the Transkei, Blyth, Shaw, King, Merriman and Streatfield interviewed him, and this was followed by a meeting with the natives themselves. Two aims were stressed:

- i. Civilisation, involving a secure land settlement.
- ii. Local self-government.

In certain districts the Fingoes favoured individual title, but it was agreed that something simpler should precede this, i.e. leases before actual transfer. All natives who planted, enclosed and improved should get titles, and this would achieve what the older Fingoes

were so anxious about. It would root the people in the soil.

Blyth, again urging the Government to encourage agriculture, suggested that Blythwood might provide opportunity for experimental farming.

Regarding local responsibilities; all headmen would, in future, be paid alike, namely £12 per annum and their duties would be defined. Already these headmen had been willing to adopt European standards and, among other things, had entirely discountenanced certain degrading ceremonies of the natives. The Magistrates remarked on their active co-operation in reforms. Among the tribesmen, however, a sort of apathy seemed to have crept in since the war; they watched with suspicious curiosity the coming of more Europeans to neighbouring districts; the reallocation of lands to the rebels. Blyth marked this changed attitude with concern.

1882  
Blue Book

In Emigrant Tembuland, the Secretary for Native Affairs found that he had to face the problem of dual control. Mantanzima complained of restrictions on his power and of his loss of salary. Formerly, he got licence money, fees and fines. Now he got nothing from the Southeyville magistracy and no licence money, as formerly from his men. His own movements were restricted by the Pass system. The S.N.A. found it advisable to raise the salaries of these chiefs (to £120) for the sake of maintaining peace.

In Tembuland Gangelizwe's complaints were of the same nature, and he demanded as much as £500 per annum for loss of salary and for his loyalty during the war. He, too, was allowed an increase - this time of £100.

Regarding land, the chiefs manifested a desire to keep the old form of tribal society. Matanzima asked for "a written document confirming him and his

people/...

people in the land they had, otherwise they could not be sure that they would continue to hold it, considering all the changes that were going on". He suggested individual tenure for himself and a few others, and collective tenure for the tribe.

Gangelizwe, too, asked that tribal tenure be maintained and a document of possession kept by himself "as he did not know what would happen if the present Magistrate were to go away." In Elliot, however, he had great faith.

Through this tour Sauer was better able to decide on future policy, and it became a practice for members of the Executive to visit the Territories rather than rely only on Blue Book reports. ✓

The years 1882 and 1883 showed certain signs of progress in the Transkei. The Butterworth hospital was completed, and more medical aid was given to natives in all districts. Also a system of local taxation was originated by the Fingoes themselves to meet local needs. This "Fingoland District Fund" became the nucleus of a municipal financial organisation. The Government encouraged this by contributing on the £ for £ basis, and it was entirely under native control. At the same time, the suggestion that a Board of Guardians should be formed for the care of the property of minors emanated from the headmen, but this did not meet with sufficient response and fell away. They were more enthusiastic about the formation of a Native Reserve Force of 200 men - who met once a month for military drill and inspection of arms, and were paid for attendance. Butterworth Report

Regarding the Land and Administrative Settlement, between 1881 and 1884 two important Commissions were

carrying/...

carrying on investigations. The chief one was the Native Laws and Customs Commission; but the one of more immediate need was the Tembuland Commission to determine the settlement of the lands confiscated after the 1880 rebellion. ✓

The Tembuland Commission determined the proportion of land to be left to the natives. Part of the country was reserved for Europeans, part reserved for natives. European areas were marked out north of Cala in Emigrant Tembuland, adjoining another settlement along the Slang River, where Gangelizwe ceded a small strip from Tembuland proper. The rest was left for the Tembus. In G. 66. '83. Griqualand East a large proportion of land was taken over for European settlement.

In its report the Commission recommended:- ✓

- (a) That the portion from which the Emigrant Tembus had been expelled should be permanently granted to native subjects, irrespective of nationality, under Individual Title. Thus the Government was introducing a European type of settlement.
- (b) Gecelo's territory was to be granted to Europeans provided that the rights of the loyal natives were retained there. As this had not yet been annexed, the assent of the Imperial authorities had to be gained before titles were issued.
- (c) Maxonga's Hoek was to go to Europeans, but only after consultation with Gangelizwe who claimed overlordship there.
- (d) The Gatberg area, part of Griqualand East and, therefore, part of the Colony, became the European area of Maclear, and was dealt with under the agricultural laws of the Colony.

In all applications for land made by natives, consideration was <sup>to be</sup> given to the type of native, and the Commission added that "the great success that

has/...

has attended the settlement of natives on small holdings, especially in Griqualand East, points to such occupation as offering the best guarantee of native loyalty to the Government."

Another Commission was appointed to determine how the settlement of the vacant land should be carried out. Hemming, Irwin-Bradfield and Bekker formed this Commission. In the instructions to the Commission, it is noticeable that the allotment of ground to the natives was to proceed on the same lines as that to Europeans, and the rent was to be the same. A full inquiry and report followed, and many claims investigated, complicated by claims with no foundation and by encroachment from overbearing Fingoes. The Commission received innumerable complaints about the latter from the Tembus who stated that the Fingoes had been introduced deliberately into the country after the war. It became necessary to give Gecelo a document, protecting him in his rights.

The Commission decided upon "small locations of from 1 - 15 morgen of arable land, at a quitrent of 5/- per morgen per annum, and this should give them the right of 10 - 15 morgen of grazing land to each morgen of arable land, and a building plot of half an acre, with definite instructions about the grazing rights. The regulations were to have force until altered or amended by properly constituted municipal authority. The arable land and the building plots were to be beacons off in localities suitable for village communities. Certificates of ownership were to be given to the grantees and heirs.

The rebels were settled elsewhere with no certificate of ownership, but with strict registration and headmen appointed by the Government. They were to

pay no quitrent, but £1. p.a. as a tax, while the headmen received land instead of money remuneration.

The boundary lines did not satisfy the colonists who claimed that the land from Southeyville to the Drakensburg should be thrown open to Europeans. In February 1883 Cumming, through Chalmers at Dordrecht, reported that squatters were trekking into the district. He found the special police powerless to prevent this, and got permission to ~~dis~~disband these and appoint others. In spite of this measure, the farmers continued to trek into the Stockwe basin. In March 1883 Levey was given definite instructions to stop them. He issued a formal notice to quit on threat of a summons, and he published the regulations for the depasturing of stock on crown lands in Tembuland by which a licence was demanded and a heavy penalty inflicted after fourteen days. The farmers, led by de Wet, refused to move, and Hemming of Queenstown was obliged to send over a detachment of the C.M.R. They moved the intruding colonists without ceremony, "their goods and chattels were packed on wagons and their stock collected, and they were conveyed across the boundary amid a chorus of lamentation and vituperation from the females of the party".

Appendix to Annexures. G. 55. '83.

The natives watched with interest, but took no arrogant steps. They had called a meeting of their leading men, and sent a deputation to wait on the Commission with a memorial setting forth their claims.

Loyal natives were settled now in the areas demarcated for them - less than half the area as it

originally/...

originally stood, and just enough for their claims. These were of two kinds. Some natives had got grants of land from chiefs with the approval of the Government, and others had held land on tribal tenure but had remained loyal. Claims of the native farmers were commuted for small farms of from 250 to 500 morgen, with an annual quitrent of £1 per 100 morgen. Tribal claimants got from 5 to 15 morgen with an annual quitrent of 5/- per morgen and ten morgen of pasture land to every morgen of arable land.

In June the native area was added to the Cala magistracy, and the natives helped in controlling the district by forming a body of native detectives to trace cattle thefts.

Thus the Government preserved and reserved these areas for native occupation, and set on foot one of the earliest plans for native farms held under individual tenure. Of all the members of the Commission, it was Herming who had pressed the need for security of tenure, and went further in advocating large native reserves. "There should be a fixed line for each tribe.....the natives are gradually<sup>being</sup> pressed into a space that is too small for them. Unless it is in- Blue Book 1883 tended to produce a set of banditti and plunderers, having no land on which to settle down and follow peaceable pursuits, the sooner a native reserve is established the better for the peace of the Colony".

In Tembuland, land had been alienated for the site of Umtata for European settlement. Nearly half the land of the rebels had been confiscated - doubt- fully wise, although this did more than anything else to impress upon the native the seriousness of rebellion.

Throughout/...

Throughout 1881 and 1882, and issuing a report in 1883, the famous Native Laws and Customs Commission was attempting to clarify the position regarding native tribal life and law. It was agreed that a code was necessary: "the magistrates were excellent, but there was a want of legal learning among them, and they required a code upon which to work. They had had good experience, and could, therefore, adapt the law to the practices and life of the people."

Notes in  
the House.  
Press.  
May 1885.

The evidence collected by the Commission was invaluable, and the code drawn up has proved successful, although all the recommendations of the Commission were not put into force.

The chief point to be decided was whether native law was to be recognised in the Native Territories. Upon this depended the future of those Territories. In the Colony native law had not been recognised, but the absurdity of applying colonial law in purely native districts in the Colony was realised by the magistrates, who, without any legal authority to do so, allowed the existing law to remain. This happened in the border areas of Kaffraria, Queenstown, Herschel, and a few others. There was the possibility that an appeal to the European courts might be made against their decision, when their irregular use of native law would be exposed. But this they were willing to risk for the legal irregularity was a necessity.

Brownlee's  
own statement  
re Kaffraria.

There was some hesitation in abandoning the old Cape practice of "equality before the law for black and white"; but differential treatment regarding the Territories was so patently advisable, that it was agreed to "recognise existing institutions as far as possible.

The magistrates in the Transkei, Idutywa, Griqualand East, and Galekaland (1879) and Tembuland (1882) under regulations published for their administration, were permitted to judge native cases by native law.

At first, the Chief Magistrate with two others formed an Appeal Court, but by Act 40, 1882, the right of appeal was extended to the Supreme Court and the Eastern Districts court. The drawback here lay in the unavoidable delay in settling the cases.

Blue Book  
1883.

Procedure in the law courts was not satisfactory between 1879 and 1884. In place of the old, simple native procedure, plaintiff and defendant deposited 10/- before the case was dealt with, after which the loser paid; further appeals required £1 in payment. When petty cases were brought to the office, generally more was lost in payment than the case was worth, and this tended to discourage the bringing of cases to the office. In stock thefts, insufficient evidence meant no conviction, whereas, according to native law, the native had to account for spoor being traced to his kraal or for stock in his possession, and thefts were rarely undetected.

Stanford's  
Report.  
Blue Book  
1884.

In certain circumstances, according to native law "the owner of the stolen property receives the whole amount of the fine inflicted, except the messenger's fee. In our courts only half is handed to him". He prefers, therefore, native law.

Blue Book  
1884  
R.W. Stanford.

While European control over the native was still in its experimental stage, rules of court procedure were very loosely defined, and magisterial action differed from district to district. This had its merits, but was too easily open to abuse to satisfy Cape Legislators.

The Commission, therefore, had many points to remedy. The members of the Commission were James Ayliff, M.L.A., Charles Brownlee, then in Griqualand East, W.B.Chalmers, T. Uppington, Bisset Berry, E.P. Rolland, R. Solomon, Sir J. Dirk Barry .

They made a detailed enquiry into existing native law, in which they were greatly helped by Maclean's Compendium of Law, made in 1855. Their investigations covered criminal and civil cases; Native marriage law and polygamy; succession; land tenure; and the possibilities of local self-government. Hence, their work covered far more than the question of the law courts, for it involved the analysis of every administrative problem.

Kafir law and custom was so interwoven with the social structure that it was going to be extremely dangerous to alter it suddenly. The object in view might be entirely defeated.

The Commission drafted a special Code of Criminal Law, and devised a series of Regulations governing certain distinct native customs, so that customary laws remained essentially unaltered. The Commission thus hoped "to secure a uniform and equitable administration in accordance with civilised usage."

The Penal Code draft retained certain old characteristics, and new points added were not so rigid that they could not be modified at the discretion of the magistrate.

It was not advisable to suppress usages such as Ukulobola, but gradual changes and restrictions were recommended "to keep in view the emancipation of the Kafir woman from the degraded position in which, according to English views, she is placed by the practice of/...

of Ukulobola and Polygamy".

In non-criminal matters "the laws of growth must operate, so that native law can gradually disappear" Hence, no civil code was made. ✓

The Commission found that there was no existing criminal law (distinct from civil law) among natives which could be adapted in its entirety and codified. There was a certain distinction between crimes and civil wrongs, but it was built upon the theory that all the members of the tribe belong to and give strength to the chief. Injury to persons is injury to the chief to whom reparation is due. Compensation can only be demanded by the chief for murder and he receives the fine, blood money. He may give the injured party some of it, but if he does so it is only a gift.

Injuries to property only give rise to claims for compensation by the owners of the property. Theft is not a crime against the community; Kafir law is thus incomplete. In dealing with criminal cases, some of the magistrates used Kafir law, others colonial law, others a mixture. A written code of procedure was needed.

In 1883 colonial criminal law was not distinctly codified. It was partly Dutch and partly taken from Latin commentaries. It was incomplete where native tribes were concerned, for it did not touch matters peculiar to their society, at that date, such as witchcraft. "The adoption of colonial criminal law would perpetuate such evils, and it is chiefly to avoid them that we have suggested a penal code which, while it adopts the general principles of

Laws and Customs Commission Report. P. 23.

the existing colonial law, endeavours to remedy its defects and retains some laws and principles of procedure dear to the natives, and which commend themselves to us as proper for those territories."

Working on the plan of the Indian Penal Code, the Commission drew up a Statute Book as well as a collection of cases; and it was advised that officers should make recommendations and report on its working from year to year.

Commission under Lord Macaulay. Amended 1879 by Stevens.

Laws were to be applied without regard to colour or to class, the only hint of the latter was in the case of cattle thefts, when communal responsibility was not applicable in European areas. The expedience of this Spoor Law (involving communal responsibility) had been recognised comparatively early in the Colony. The tracing of the spoor of stolen cattle to the guilty kraal and the whole group being made responsible for the theft made every native a detective, and was "an inexpensive substitute for a police force."

It was retained in the Code, but had really been recognised by the 18th Section of Act 16 1864. In 1883, however, the law was stated to apply only to cattle or sheep spoor, not to general property. Ordinary theft was treated as a "crimen continuum", (Roman-Dutch not English Law). Regarding other criminal cases, punishment by death for murder and treason or commutation to imprisonment for life with transportation was a departure from native law, where murder was a fineable offence.

At criminal trials, compensation could be recovered by the injured party in every case, although original native law did not admit of this: "No man can eat his own blood" was the native saying. Regarding native

religious/...

religious practices, the Commission asserted that these could not be classed as crime, (in spite of the pleas of the missionaries). But they decided not to recognise polygamous unions in the law courts - a decision open to criticism. Breaches of contract, Masters and Servants law, did not operate in the Transkei.

It was impossible to draw up the Code or to continue the consideration of local government without making an investigation into the position of the chief in tribal society. Evidence showed that his position was not that of a despotic ruler, but that he was subject to every law of the tribe. New laws were made by him only in conjunction with his councillors and his subjects. They embodied the national, the tribal will, and were administered by the chief. Brownlee, with his years of experience, could quote one instance only when autocratic powers had been exercised by a chief. He was administrative and judicial head of the tribe, but not, according to native law, a tyrant.

It was agreed that the chiefs, referring mainly to those in Tembuland, should not be divested of any more authority. It was left optional for the natives to submit cases to the magistrate's office or not, except for important criminal cases which had to be submitted to the magistrate.

Recommended but not put into practice was the formation of a High Court presided over by a permanent official, namely, a Recorder for the Native Territories, Colonial rules of procedure and special provisions, such as the right of magistrates to call in native assessors were to be included. This was to take the place of the Court of the Eastern District, operating

for/...

for the Transkei as stated in Act 40, 1882. A further appeal was to be allowed to the Supreme Court of the Colony.

This new court would involve the abolition of the old system by which the Chief Magistrate and two assistant magistrates acted as a Court of Appeal, and the magistrate would have to submit to the Higher Court for review all but minor criminal cases. These recommendations were criticised by the magistrates and not accepted, as Blyth pointed out how they would weaken the authority of the magistrate and not help the native who would not understand an alien body judging their cases. Hence, the "Special Court" of Chief Magistrate, two subordinate magistrates and native assessors or jury, was substituted.

In connection with civil law, the Commission found that it would not only be a very difficult task to draw up a civil code, but of very doubtful value. Social changes were being introduced too rapidly. For the present, ordinary civil colonial law might be adopted as far as it was applicable, with certain regulations dealing with marriages, polygamy, and inheritance.

Marriage customs required some attention. For years magistrates had been faced with the settlement of lobola cases. For years the missionaries and some of the officials had condemned the "buying and selling of girls". There was no clear understanding of the practice of lobola. With the natives the marriage contract required, as an essential, the delivering of ikazi, the dowry cattle, by the husband to the father of the wife. This was condemned by some Europeans who believed that the contract might be made without

consulting/...

consulting the woman, for the sake of the cattle which became the father's property. Native custom, however, interpreted it as the father's receiving compensation for the loss of his daughter's service and, at the same time, as a guarantee that the father would, if necessary care for the daughter if the latter were in need, (provided, of course, that she had not brought it upon herself). It was, therefore, also a guarantee that the wife would be a dutiful wife, for if she deserted her husband the dowry had to be returned, but retained by the father if the husband was in the wrong. No father could hold two dowries, so if the husband died and the daughter married again, then the dowry cattle of the first union had to be returned.

All the other evidence went to show that the native woman was not the chattel of her husband. He could not sell, injure or kill her; nor is the child the father's property. Gangelizwe was the only example to be found of a chief who asserted that the wife was his property. This analysis indicates that the native marriage custom was in many ways an excellent one, tending to the orderly life of the tribe. It showed that European criticism can be entirely misplaced.

Unfortunately, the system admitted too easily of abuse. It was the abuse of marital or parental authority that had given rise to the idea that the Kafir woman was a slave. The marriage system itself was not at fault. The Commission decided that the practice of ukulobola should not be suppressed,

but/...

but regulations formed to assure that the woman should not become a slave;- there was to be perfectly free consent to marry; Polygamy was not recognised in the law courts, and would, therefore, gradually tend to disappear; claims for the restoration of Ikazi cattle were not to be heritable or transferable as it had been - thus a less vendible aspect was given to the transaction; in the courts ikazi itself was omitted from the essential of marriage and no legal claim for it could be made.

It was hoped that the general form of marriage ceremony would take the place of native custom. Polygamy could not be suppressed by law but in various ways it, too, was discouraged. Although existing marriages were recognised, in the future marriages had to be registered, whether performed by christian or heathen rite; after a given date only the first marriage would be recognised by the Courts of Law, (regarding matters such as inheritance or separation). But children of a polygamous union were not to be penalised.

The practice of Ukugena was not recognised. With regard to Inheritance - only one law was recognised by the natives, that of primogeniture. But the draft act provided, too, for women's rights and disinheritance - following in most of the clauses Maclean's compendium.

The whole Penal Code and Civil regulations formed a subtle attempt to introduce gradually the European social system, but the framework remained tribal.

One of the most valuable parts of the investigation work was that dealing with the Native Land tenure. In native society the land of the tribe was regarded as the property of the chief. He was their trustee, and they occupied it in a communistic manner. It fostered a strong tribal spirit, but had many disadvantages. It tended to retard progress because individual enterprise was discouraged. It gave the native no permanent interest in the land, for in extent and value it rose and fell with the chief of the tribe. The paramount position of the chief enabled him to seize the property and plot of any tribal member if he wished to do so, for accusation of witchcraft or the detection of some imagined crime by the witch doctor was sufficient excuse.

Provided the magistrates could convince the natives that the land was the Government's to withhold or to give, and that the Government was willing to alienate in perpetuity land to each native to cultivate as he wished, and to help him with new methods as rapidly as possible, then problems of governing, overcrowding, conflicting loyalties would be solved. As Blyth reported before the Commission: "the possession of property does and will do more than anything else to wean the native from his chief". Security on the land was what counted most to the native. ✓

The Commission's recommendations were intended to indicate first these principles:-

1. Issue of title deeds of land occupied by natives, to be vested in Boards of Trustees, one being the chief or headman.

2. No/...

2. No power of mortgage over land held by tribal title. Permission might be granted for mortgage for some improvement, or for division for individual title.
3. Regular reports from these areas were to be submitted, and registration of occupants enforced.
4. No sale to Europeans to be permitted.
5. Forfeiture for absence of over twelve months.

Title deeds were only to be issued if a majority decided in favour of this.

Individual titles were to be heritable, but not transferable except to natives.

The Commission found that the Territories varied greatly in their attitude towards individual tenure. Most of Fingoland was eager for this, but large areas in the Transkei and Tembuland wished to keep their old communal tenure.

Within the colonial boundaries, the officials decreed in favour of division as recommended. But here they were not altogether new; the Fingoes in 1871 had been granted communal title to their land. It served to secure their land to them, but it did not tend towards progressive farming, nor was it satisfactory for long, because the rapid increase of native population rendered the area far too small, and, once their land could not support them, encroachment began. Intensive progressive agricultural farming had to be introduced. It was believed that only with individual title could this be carried out successfully.

The Commission's investigation into the possibility of local government, involved an analysis of government as it existed.

Natives had been used to the rule of a chief in whom was vested judicial and executive power. To him they had free access, and there was open discussion upon debatable points. A magistrate with mainly judicial power could not fill the hiatus between government and governed. In many cases the "system of magisterial rule answered well but it lacked executive force". Office work tended to crowd out supervision and leadership. The whole history of the Transkei shows that the personality of the magistrate was the deciding factor in the administration. Those of the calibre of Blyth, Elliot, Levey, the Stanfords, were very successful in the way they combined their judicial functions with executive authority. The danger came when an external authority, such as the Legislature of the Cape, passed Acts covering the native Territories without sufficient consultation with the natives or local officials.

Evidence '83  
Commission  
Port St. John's

✓ N8

✓

Blyth had always urged open discussion, and invariably put it into practice. The lesser magistrates followed him. "I instituted a court of chiefs and headmen to meet monthly and pass rules for the good of the district", stated Girdwood (Tsomo). It was important also for the natives to have frequent contact with a representative of the central government - they could only visualise the strength of this government, as reflected in the personality of their local officials.

Blue Book  
1884.

Brownlee/...

Brownlee and Ayliff when Secretary for Native Affairs made a practice of visiting the Territories regularly. Sauer did the same and insisted upon open discussions with the natives; Rhodes as premier and Minister of Native affairs made a series of tours. Shepstone had advised this earlier. "It would be of advantage if meetings of chiefs and headmen were held to discuss with the Secretary for Native Affairs changes in law or in administration contemplated by the Government".

The suggestion of the Commission to appoint a permanent executive officer and Recorder for the Territories was not productive; but the suggestions for the formation of a Native Council are important, in view of the District Councils adopted in the '90's, and the present day Representative Council.

It was one thing to advise open discussion and cooperation with the central government, it was another to consider the introduction of local government on municipal lines. They found that "there appeared to be no desire for them on the part of the native. Tradition points to the rule of the headman in the village as that of the chief in the tribe. Hence, the readiness to submit to the personal guidance of the missionary or the magistrate and the lack of individual initiative."

It was believed, however, by most officials that a feeling of municipal responsibility could be gradually built up. The success of the agricultural societies in Fingoland, in Emigrant Tembuland and in the colonial Fingo locations of Victoria promised well. The Fingoland District Fund had all

the characteristics of a municipal fund, and before this was begun Blyth wrote "we had meetings in Fingoland which passed regulations to limit the evils of beer-drinking: to stop Intonjane and Abakweta, and to discuss local needs, such as road making. As early as 1871, £700 was raised for the Kingwilliams-town ~~Road~~ road, and ten years later £1500 for an Industrial Institute". He added, "I would give certain rights to the people, but the magistrates should be considered as the heads of their respective districts, so that meetings could all be held at the office, all subservient to the Government which stands for the Paramount Chief."

Blyth's evidence.

The same desire to exercise control in their own affairs was exhibited daily in the district courts, when native headmen aided in hearing evidence and in questioning.

Elliot's evidence.

In locations such as Kamastone on the border, Jeffrey wrote "we recognise some kind of municipal rule here, with regard to brick-making, quarrying, water rights, building of kraals". The natives decided these things in conclave.

Thus it did not seem an impossible thing to hope that with guidance at first, local institutions might be a success.

The whole work of the Commission was productive of a great deal of discussion; and the evidence was invaluable to later Native Affairs Commissions. Only some of the recommendations were brought into force, the greatest achievement being the Code of Native Criminal Law and the Regulations regarding Civil Administration/Law. These came into operation

Statute dated 9. 7. 1886

in 1887.

The principle of recognising Native Civil Law with the prospect of gradual modification, was accepted.

The principle of substituting certain points of European Criminal law was likewise established, but most of the administrative reforms were defeated or postponed.

✓ NB

Legal procedure remained in the first instance in the hands of the magistrate, and no great change was made in legal administration. Resident magistrates had according to the Regulations of 1879 jurisdiction over civil and criminal cases, and the right to use native law when both parties were natives. Court procedure was the same as that in the Colony.

P. 110  
1879.

A return of all cases had to be sent to the Chief Magistrate, and capital charges had to be tried before a court consisting of the Chief Magistrate and any two other magistrates. For the death sentence a warrant from the Governor was necessary.

In civil actions, appeals could be made from the Resident Magistrates' courts to the Chief Magistrate on the payment of £1.

In 1882 a change had<sup>been</sup> made when the Eastern Districts Court was given current jurisdiction with the Supreme Court over the annexed portions of the Territories, while capital offences had to be sent for trial to the nearest colonial judicial centre.

Resident  
Magistrate  
Courts Act  
1882.  
Chief of  
Justice.

When the Annexation of Tembuland took place, the same system was introduced there: appeals from the courts of the Resident Magistrate being permitted to the Chief Magistrate or to the

Act 3. 1885  
Act 40. 1885

Eastern Districts Court. When the Penal Code was introduced, a clause instructed Resident Magistrates to remit all important cases for trial to a Special Court. This was to consist of the Chief Magistrate and two Resident Magistrates, and this Special Court might remit the case either to the Supreme Court or to the Eastern Districts Court or Circuit Court; to which appeals could be made as before. All cases involving more than a £5 fine, a monthly imprisonment or twelve lashes had to be reviewed by the Chief Magistrate, and it was only in 1889 (P. 116) that local magistrates were given increased jurisdiction. Both the Resident Magistrate and the magistrates of the Special Court had the right to call in native assessors in any case where they deemed it advisable.

In 1889 Circuit Courts were held in the Territories in lieu of the Special Courts, but these did not meet with the approval of officials or natives.

P. 18 '89  
Powers con-  
ferred by  
Chief of  
Justice.

Between the years 1880 and 1887 colonial responsibility in the Transkeian areas had been extended. By the time the Penal Code was enforced, Tembuland and Emigrant Tembuland, Galekaland and Bomvanaland had been fully annexed to the Colony.

In 1880 the Bill<sup>for</sup> Annexation had lapsed, as the Colonial Office (Hicks-Beach) had been emphatic regarding the inclusion of a Penal Code and for clauses allowing for the gradual introduction of representation in the Cape Parliament, to which the Cape did not agree.

Between 1881 and 1884 came the Basuto War of Disarmament and the breakdown of the very system of administration which was being introduced into the Transkei. When Basutoland was handed over to the Imperial authorities, a large party in the Cape proposed that the Transkei should be abandoned also. "After the

first/...

first Bill had been drawn up, Her Majesty withheld her assent", Scanlen stated, "but the reason was that the Act of Parliament, passed before the Letters Patent reached the Colony, did not conform with the very exceptionable conditions in those Letters Patent. A Code of Laws for the governing of the Territories should have been appended."

Scanlen would not consider annexing the Territory on the conditions of the Letters Patent.

Apart from this, expenditure on the Transkei had been heavy within the last few years. It had exceeded revenue by £248,000, excluding military expenditure which had been excessive. "Let us retrace our steps as quickly as possible" said Scanlen, "on philanthropic grounds alone, the Territories cannot be held". Considering the weight of responsibility which governing the natives involved, and the difficult question of representation, Scanlen might have carried his point. But Uppington joined the opposition against him, and built up a body of opinion in favour of annexation. Besides, the Penal Code had been drawn up and was to regularise law in all these native areas.

A coalition of Uppington, Hofmeyer and Sprigg defeated Scanlen at the general election, and there followed practically immediately, the annexation of Tembuland and the other partially annexed areas in 1885. The Territories were now effectively under magisterial influence and there was some sort of constitutional uniformity. By Proclamation (26-8-85) regulations were issued for the government of Tembuland, Emigrant Tembuland, Galekaland and Bomvanaland on the same lines as in the chief magistracy of the Transkei. Courts had already been

constituted

constituted (Proclamation 13. 12. 83) at Umtata, Enjanyana, Engcobo, Mqanduli, Cala, Xalanga, St. Mark's, Elliotdale, Kentani, Willowvale; and thereafter a few minor alterations only took place. Southeyville was abolished and the boundaries of St. Mark's and Xalanga re-defined (1885), and Enjanyana was abolished (1886) thus involving a change in Xalanga, St. Mark's and Engcobo.

Transkei, Tembualnd and Griqualand East, the three chief magistracies, were uniform.; they were governed by proclamation of the Governor General in Council, but Parliament retained the right to amend proclamations when these were put on the table the following session. No Act extended to the Transkeian Territories unless expressly stated; the legal system had been clearly defined, and was closely connected with the Cape only through the Eastern Districts Court, and later the Circuit Courts; financially the Cape and Territories were not separate - all revenue going into the general Treasury. ✓

Thus a partially differential system of administration had been developed, in spite of the frequent criticism levelled by the Cape upon such systems. Unfortunately, the Glen Grey and other native locations were not as yet differentiated. ✓

During the decade 1880 - 1890 while jurists and politicians had been so active, what social advance had been made among the native themselves; and how had the Penal Code been accepted?

Progress was slow. The Tembus seemed to settle down after the rebellion of 1880, but the natives showed an apathy towards reform. In later years

administrators/...

administrators spoke of the period as stagnant.

The Fingoland district fund was a success only at first. The Government had responded on the £1 for £1 basis, but once this support ceased (Blue Book 1887) the fund gradually lapsed, the voluntary contributions diminishing year by year. District schools had to rely on this uncertain fund, and this had a deterrent effect on education, for the Government support had been withdrawn. The Butterworth Hospital suffered from lack of funds, and only Blythwood appears to have carried on steadily. The Gaikas in the coastal areas refused to take up the 10 acre lots, and the Government refused to take any more steps to press the matter of individual title, in spite of the insistence of the magistrates. Levey reported from the new magistracy of Cala, "The natives see that they must pay £2. 10 for ten morgen with title, whereas 10/- hut tax was all that was asked before". They did not see the value of the title to land.

Meantime, Europeans came into the areas that had been set aside for them after 1881, and new ideas, new wants, and new vices were introduced; besides, the competition for land was emphasised. A Memorandum prepared on the increase of the native population showed it to be nine times as rapid as that of the European; it was an unsolved problem where these natives were to be placed. The Government was faced with a deficit at the end of each year, but fortunately this was gradually decreasing.

Appendix  
Blue Book  
1885

Blue Book '86  
" " '87  
" " '88

From/...

From Tembuland, however, Elliot repeatedly wrote of economic distress, largely owing to the smallpox epidemic; natives had to sell their stock to pay their taxes, but few of them chose to turn to the more profitable agricultural farming. Elliot tried experiments with cotton and tobacco, but did not succeed in introducing either to any extent.

Blue Book  
1887

He complained of the restrictive pass laws which made it difficult for natives to seek work in the Colony. There was more inclination for this, now that the economic conditions were unfavourable in the Territory.

The Code (Jan. 1887) was universally approved by the magistrates in the Transkei and Tembuland. The Special Court, held in the districts, was satisfactory. "It is accepted by the native as being fair; it works well and is admirably adapted." The practice of having native assessors was appreciated. The Sections of the Code dealing with the Spoor Law, 200, 201, 202, proved very satisfactory. The exact working of the system was examined by the Commission, (Report '83. Appendix B.13 - 19), and it was found that officials and natives had confidence in it. Elliot remarked that "it acted most beneficially as a check to stock thefts. The system is one understood by all the natives, being a portion of their own law incorporated with ours."

Elliot advised that extended jurisdiction should be given to magistrates in cases where guilt was admitted in the first instance, as there was no good purpose served in bringing these cases to the

Special/...

Special Court. This system was later adopted.

In criticising the Penal Code, a certain difficulty may be noted which might have caused trouble:- Section 22 of Proclamation 140, 1885, permitted the use of native law when both parties were natives. Since 1882, and restated in 1885, appeals could be made to colonial courts which did not recognise native law. This was only remedied by the Native Territories Appeal Act of 1894, when the chief magistrate and two appointed European assessors formed a Court of Appeal for the Territory.

Blyth recommended at the same time a reform in civil procedure, which continued to be very expensive for natives, but he did not succeed in getting this passed.

On the introduction of the Circuit Court in 1889, there was some complaint. The Special Court where the magistrates were well known was preferred, as the Circuit Court judge, although respected, does not always know the natives well, and the jurymen are not trusted as were the assessors. Elliot remarked bitterly "the Circuit Court is popular with the Europeans, chiefly because it attracts more importance to the Territory and circulates a little money, and to some of the magistrates it is a relief from responsibility and distasteful duty". Those in outlying districts complained of the long-distance journey to Umtata where the Circuit Court met.

William Standford pointed out how difficult it was for natives to appreciate new methods of procedure in law. For instance, in the matter of theft - the native learnt that to continue denying a charge of theft resulted most likely in imprisonment; but the

prison was comfortable, and did not necessarily mean relinquishing the stolen goods, a far less severe process than that of the chiefs who insisted on the goods being found, and payment of compensation by the whole kraal unless the thief himself were discovered.

Magistrates in the Territories more than judicial experts understood the best method of treating native cases. And not until the study of native law and anthropology were entered upon could a better system be expected.

"Since the introduction of the Circuit Court and trial by jury natives have grasped the advantages of producing witnesses and establishing alibis", said Elliot, "and they will boast of their success afterwards." In other words, the whole spirit of justice was being misunderstood through the native inability to grasp the purpose behind the machinery of the law.

In Parliament at this time a struggle was going on regarding the question of franchise. The whole Transkeian system rested upon the acceptance of differential administration, flexible and modifiable to facilitate cooperation with European society. But with the increase of the European population in the Transkei and the settling up of townships at Umtata and Butterworth, Cala and other centres, and the alienation of large tracts of land to Europeans, a debate was opened over the political rights of these people and the comparative rights of the natives, living side by side with them. Representation in the Cape Parliament was demanded for the Transkei, Tembuland, and Griqualand East. The natives had never considered either the necessity or possibility

Blue Book  
1887

of/...

of such a step. The majority were content with being represented by the Secretary for Native Affairs. Elliot's Report.

"Parliamentary representation will not satisfy the native generally. It is beyond the comprehension of the mass, and will not increase their attachment to us", stated Levey. It was advisable, first, to have more local government, a district system in addition, where the officers might be political administrators as well as judicial officers.

The magistrates saw that the natives would be made a political instrument. Agitation in the Territories, publicity in the press, and prominence even in the native paper, Imvo, published in the Colony, led to extravagant mis-statements of all kinds. A belief was current for a time that this was a new effort by the Government to seize the land.

In Parliament Uppington quoted the "1300 natives in Herschel and 915 Europeans in Aliwal who united to return Mr. Sauer, when not twenty of the natives were qualified to vote." In the Transkei the position was likely to be more serious still if the right to vote was given to black and white alike.

Special franchise laws were suggested upon the New Zealand system - the Maoris had separate representation; or upon the Australian, Queensland, system where no native could vote unless he owned and improved his land.

The plea for equality was set forward by Ayliff - "to blend all nationalities in a common citizenship". This was neither practicable nor desirable, although Ayliff was motivated by the highest ideals. In numbers the Europeans in the Transkei did<sup>not</sup> make up one

constituency/...

constituency but it was obviously impossible to grant one representative for the scattered bands of white men there. It was as foolish as the proposal of a Native Council directly elected by all natives who paid the Hut Tax, in an area as large as the Western Province.

Quoting the Bishop of St. John's, Uppington said "to give votes to the natives was to hand the country to savages, intolerable to any Europeans, and dangerous to natives, in introducing them to our political life, when they scarcely comprehend the common duties of social life. The only object of the Franchise Bill was to debauch them for political purposes."

In spite of these cogent arguments, the Bill went through. Only two electoral divisions were created, Tembuland and the Transkei formed one, Griqualand East another. Voting qualifications were to be similar to those exercised in the Colony, and an amendment was added, disqualifying those possessing land on communal or tribal tenure. At the same time, the Native Registered Voters Relief Bill was passed by Hofmeyr and his party, relieving enfranchised natives of some of the disabilities of tribal natives.

It was found that the Franchise Act made practically no difference to the natives at first. Elliot in 1889 reported that not five per cent of those in his district knew the value of the Bill, and, in any case, only a few were qualified to vote as individual tenure of land was not yet accepted generally. The danger was postponed.

In/...

In the same year, Matthew Blyth, the greatest of the Transkei magistrates, died. His loss was felt not only in Fingoland where he had done his best work but in the whole country. His place as Chief Magistrate of the Transkei was not filled; the Transkei was combined with Tembuland and placed under Elliot in 1891.

The 1880 - 1890 decade saw a great change taking place in South Africa. The era of industrial development was beginning, and the country was to call upon the natives to make that industrialism a financial success. Native areas began to be regarded as an economic asset. Labour returns showed a steady increase in natives leaving for the Colony or the mines. Over 4000 left from the Transkei alone in 1889, and over 5000 for the diamond mines, while from Engcobo in Tembuland 2000 left for the Transvaal, "although they take three months on foot". Wages were considered good by the natives, and contracts were of short duration; white agents were plausibly unscrupulous in the promises they made.

Numbers fluctuated according to seasons. At first few left unless they had to do so, and no regular labour scheme was yet established. Generally, traders were recruiting officers at the same time and made a handsome profit out of this. Very seldom did half the money earned find its way back to the district, and the natives returning from the mines introduced diseases and vice and a restlessness which contributed towards the break-up of the tribal system. No well planned society was  
being/...

being formed to take the place of this crumbling tribal society.

In spite of this, statistics show that by the end of the decade the Transkei and Tembuland were more than paying their way. Wool fetched a good price; over 600,000 lbs were raised in the Transkei p.a. and more than this in Tembuland. Revenue balanced expenditure, and fulfilled the prediction of Brownlee, made ten years before.

Blue Book  
1889

Between 1890 and 1894, there was a resumption of interest in the Territories, chiefly because of the labour possibilities. It is ironical that the famous Glen Grey Act was really carried by the Labour Clause in face of the opposition from the Progressives.

The extension of a number of colonial Acts to the Territories between 1889 and 1900 did a great deal to strengthen the bond between the two, and to introduce to the native certain features of European society and certain improvements. The Scab Act Bill was successfully applied in Fingoland, and gradually extended; the Forests Preservation Act, although resented at first, was also applied satisfactorily.

The Government resumed its payment of the Fingoland District Fund contribution (1890) and paid £450 in addition for dipping tanks; roads; and education grants; and commenced the annual payment of headmen (£4) which Blyth had recommended five years before. Levey urged that a Commission should enquire into education for the natives; industrial and agricultural training was the greatest need of the country. Ignorance had led to opposition to the Scab and Forestry Acts, and in all the outlying districts native customs and witchcraft were a hindrance to progress.

Increased security and better food supply had led to greatly increased population. "Intensive agriculture must of necessity take the place of pastoral farming, and, with this, individual tenure will be sought, and the last link of the old tribal will be broken. . . . there is no vacant land for the young hives to swarm off to now."

Census returns.  
Blue Book  
1892.

Population, land, labour problems were one. In fifteen years the population of Tembuland will double itself "unless some devastating epidemic should visit the country."

In the border locations overcrowding was critical. European encroachment was persistent. In 1885 the member for Queenstown (du Plessis) asked in the House that "the natives of Glen Grey be moved to another place". The empty land in Quumbu, Griqualand East, was suggested. Mr. Frost, authorised by the Government, called a meeting of headmen and consulted them on the subject. A large number favoured the project and were granted land in Quumbu, but none of the native farms (demarcated in 1881) were entirely abandoned, and no clear area was left for colonial expansion. It was questionable whether ~~the~~ force could be used to remove the remaining natives. Unnecessary ill-feeling was roused by a group of Wesleyan missionaries and traders who spoke so violently of the extermination policy of the Government, that the Secretary for Native Affairs was obliged to visit the district. He pointed out that the natives had no legal right to the land they were in; it was crown land; but if they wished for titles and were prepared to pay for the cost of survey, the Government would consider granting them full possession. It was their plan to re-locate the natives who remained, grouping them in one area

in order to clear another area for European settlement. Ultimately, in spite of more violence on the part of the humanitarians, the Government did resort to force, and with the help of the C.M.R. and the burning of one of the native huts, re-allocated the natives so that sufficient vacant land was left for the foundation of a European settlement at Lady Frere. Within a few years, however, the Glen Grey location was again overflowing. There was no more empty lands beyond the Kei into which the natives might be drafted, while the colonists refused to relinquish any farm land at all.

In May 1891, the Under Secretary for Native Affairs wrote to the Commissioner of Wodehouse, stating that it had been decided to make an enquiry into the occupation by natives of land in the district between Wodehouse and Queenstown, with a view to determine the extent of land, population, huts, and the advisability of moving the natives.

The Commissioner declared that all available land was occupied, that unoccupied was unsuitable, and that it was neither desirable nor practicable to move the natives.

Report of  
Evidence  
Glen Grey  
Commission.

In March 1892 the natives themselves sent a memorandum to Cape Town, stating the wishes of the people. They desired: i. that the country be divided into great commonages; ii. that the people who had lands upon the commonages should elect councils, in which the title should be vested, and the same council should regulate affairs for the commonage; iii. certificates of occupation, inalienable, should be granted to individuals, and

that/...

that encroachment should be prohibited, unless the community voted that a newcomer be accepted.

This declaration evinced the desire of the native for permanency of land tenure. The communal spirit, however, remained strong.

In 1892 the Commission investigating these lands, issued its report. The members, Holland, Frost and van Rensburg, were all familiar with the district. They found that at this date the land, 248,476 morgen, was sufficient for the population, each family averaging fifty-five and one-third morgen, for agricultural and grazing purposes. There was no vacant land suitable for farming. A 3, 1892

The difference between the pasturage on communal and on enclosed land was very noticeable, and the Commission tried to get an expression of opinion upon enclosing.

The following terms were proposed to the natives:

1. Payment for survey costs £2. 12. each, and more if the land was larger than the average.
2. Commonage would be secured to them.
3. Annual quitrent would not amount to more than the present hut tax.

On general voting the natives agreed by 2356 to 1312 votes provided "that they got title for the lands as they held them now."

Individual questioning before the Commission evinced the general opinion to be in favour of tribal title. "They are afraid that the commonages will be taken away". Besides, their lands might be seized for debt, which would not be the case if certificates of occupation were granted.

Mahonga's  
evidence.  
Mysila's  
evidence.

In view of the voting, the Commission recommended that titles be issued, and that if a member refused a title they were to be located in a separate part. The request that a clause be added to prevent the alienation of land except with the consent of the Government was not accepted outright; for debt the land might be sold under judgment of a higher court, but the cost of taking an appeal up to this court would be more than the small plot was worth. The Commission recommended that titles should be issued without any restrictions, except prevention of transfer for three years without special permission. This only deferred the day of the speculator; the colonists continued to press Parliament for the expulsion of natives to beyond the colonial boundaries, and Mr. Frost pointed out that title to native land must carry with it a safeguard against land speculators.

Hansard  
1889.

In introducing the Bill for Glen Grey Mr. Innes pointed out that once the landless native could not fall back upon communal locations, he would be obliged to turn labourer; in this belief the colonists were willing to support the Bill. But if the natives were driven from their lands by pressure, they more often resorted to private locations, notoriously badly controlled. In government locations saturation point had been reached, vide Peddie, Victoria East, Fort Beaufort; only for a short time there had been on the border a stationary population figure, but between 1875 - 1879, when the private locations had come to the fore, the population had increased by 80%, and it was really these private locations that "were eating out the white man".

Hansard  
1891

The 'Imvo' of July 15th 1893 emphasised the drastic effect of title without restrictions on alienation. Browlee had held the same view for years. The wisest plan was the vesting of lands in a Board of Trustees, headmen and magistrates, with individual plots demarcated, as it was clear that some sort of individual division was necessary. "A marked advance in farming is shown exclusively by those possessing title on certificates of occupation; under communal rule they cannot be expected to improve their land; the chiefs look upon it with disfavour as a pretentious move."

Elliot from  
Tembuland  
&  
Transkei. 1893

One of the most constructive contributions to the Glen Grey Commission was the evidence of the missionaries of Mount Arthur. Under tribal tenure, the land belonged legally to the native, and was inalienable without the consent of the tribe. Holdings in severalty within the tribal lands are held by individuals; these are heritable by natural heirs, but are inalienable, and, if derelict, they revert to the tribe. They are as distinctly under the protection of the courts of law as any farmer's land is under that protection. Under the eye of the mission, the natives could and did develop progressively, and changing the type of tenure would have meant very little.

In Glen Grey the Commission aroused distrust by their suggestion that individual title should be issued, saleable after three years with no restriction, and eviction for non-compliance. The Tembus believed that the object of this was to obtain expulsion indirectly.

In the report a series of suggestions were quoted which obviously influenced later administrators.

1. Defining of commonages, and the issue of a title to a municipal council, consisting of five members elected by the holders, with municipal responsibility.
2. No alienation of land, without consent of electors and Government.
3. Demarcation of lands by government officials in consultation with the council.
4. Cost of survey to be defrayed first by the Government and gradually repaid by the allottee.
5. A £25 house and payment of survey will give the right to the owner of applying for a title deed. Until then an annual certificate should be issued.
6. The land is no security for debt, nor saleable without consent, but will be forfeit for rebellion.

Having issued its reports the Native Commission could only wait for the Government to take some action. Meantime, a Labour Commission began to consider the labour resources not only of the border, but of the Transkeian areas.

In August 1891 a circular was sent to the native areas, asking for information regarding potential labourers. In 1893 it was found that the total average number of males going from the Transkei and Tembuland per annum was 33%, and varying from district to district from 76% to 6%, the actual numbers leaving throughout the preceding year being 22,728, on an average, from the average total population of 68,039. More were drawn to the Northern Cape than elsewhere as yet - the diamond mines. The natives were averse to

G. 39, 1893  
III app.  
Elliot.

contracting/...

contracting themselves to the Western Province farmers; they obtained better wages at the mines. They arranged with local traders to support their families and pay the hut tax for them. With indiscriminate agents they hesitated to make contracts. Many of them preferred to be left free to seek labour on their own account, and if their crops were good they did not go. The Tembus were averse to hiring themselves out at all. The prospect of farm hands was poor. As long as natives got from £2 - £3 per month and rations, and short contracts, there was no hope of getting farm hands at 15/- or shepherds at 10/-. Besides, the European farmers had acquired a bad reputation among the natives who preferred the public works. It was chiefly the Western Province farmers who suffered. The Transkei and Border farmer generally had sufficient labour.

Once the prosperous native farmer prevented squatting on his land, the labour market might improve. The half-share system was carried out to a great extent by European farmers on the frontier, for natives proved keen and produced more than they consumed. On good terms natives might be made into a farm labour class.

Labour agencies were suggested by the Commission but these had not, when tried in the Transkei, proved successful. Education had something to do with labour shortage. The type of Native Education institution then most common, produced consumers only. The Commission served to bring this before administrators. Whatever the cause, present native organisations reflected the uselessness of the educated native as a constructive labour force in the Colony. On the other hand, the danger was that the native himself, might be subordinated to his economic importance.

The memorandum on Native Labour Supply and Native Land Tenure summed up many recommendations regarding colonial locations, with the idea that once land was defined and limited and squatting checked, a steady stream of labour would be available to Europeans in the Colony.

G. 39  
1893  
III app.

These location areas were the gateway to the whole Transkeian Territory, where exactly the same problems were being faced. The Communal tribal system with its opportunities for idle natives to exist, led to a cry for definition of land, and the driving out of the landless to the seat of labour.

From the point of view of the native himself, lack of security against his chief had always been one of the worst features of the tribal system. Seizure of property, "eating up" on ill-founded accusations was still common.

Commission  
Report.  
G. 3. 1894

A revised form of land tenure might seem a royal road to the solution of the labour problem - could it at the same time bear the face of a civilising and elevating move? It was unfortunate that the natives were neither willing nor ready for the change yet. The Commission reluctantly admitted this. Education might play a part here, and by introducing the wants of civilisation, promote the need for money and the necessity for work.

Into the arena of conflicting ideals and considerations, Rhodes thrust the Glen Grey Act - Act 25 of 1894. It was designed to cover certain needs on the borders and in the Native Territories. Although it contains practically nothing entirely

original/...

original, it is very important because it took a definite stand upon Land Tenure, Local Responsibility and Labour.

Since the lengthy debates arising out of the Laws and Customs Commission, native affairs had merged more and more into general parliamentary discussions. Sometimes this led to slow legislation; sometimes to neglect. Fears of border warfare had disappeared: Basutoland had made legislators over-cautious; magistrates had lost some of their early vigour, and Blyth<sup>had</sup>/died in 1889. Elliot had given years of devoted work to the Transkei and Tembuland. He found himself more and more subject to proclamations issued without his consultation and requiring the most tactful interpretation before they were acceptable to the native areas. The investigator is led to the conclusion that a council of magistrates would have proved a more effectual and progressive body than the House, when dealing with Native affairs. Amalgamation of Executive and legislative powers was one of the secrets of governing natives.

In 1890 the Secretaryship of Native Affairs was abolished, and the Prime Minister took the portfolio. Cecil Rhodes found himself responsible for thousands of natives, in addition to his multifarious duties and his world-wide interests. He put an end to discussion and hesitation with characteristic speed, and introduced the Bill of 189<sup>6</sup> which has since coloured Transkeian Policy. Although it was immediately designed for Glen Grey it was intended to cover the Transkeian Territories ultimately.

His method in hurrying the Bill through in one session, in defiance of all principles of the Native Affairs Department, offering no opportunity at all for discussion with the natives, does not commend itself to the student, any more than it did to the Progressive Party of 1894. But the matter of the Bill was sound except for the labour clause - iniquitous but understandable. It carried the Bill, and, as was intended, it won for Rhodes the support of the farmers, but it elicited such fierce opposition from the natives, themselves, and from those chiefly interested in their welfare, that it threatened even the excellent features of the remaining 66 clauses.

His parliamentary speeches in connection with the Bill bear the stamp of his materialism and his idealism. The natives, he said, should be of use to the Colony "in their proper place", and at present the Transkei supported some 600,000. Soon the land would not be able to support them; they had nothing to occupy their minds with, now that warfare was over; they were open to <sup>the</sup> evil influences of canteens which had been set up in their midst; and worst of all they had not been taught the "dignity of labour". In this country their labour was certainly required, so a stimulus must be provided to stir them to work. The purpose of the Bill was fourfold: to give the natives an interest in the land; to allow those of superior mind to attend to local wants; to remove evil influences and to apply a stimulus to work. This was very characteristic of

1894  
Hansard.

the/...

the decade.

We may examine the Bill in some detail - the "Bill to provide for the disposal of lands and for administration of local affairs in Glen Grey and other proclaimed districts."

The land was to be divided into locations, with the land rights of titled owners, traders and missions safeguarded. The locations were to be divided into 4 morgen allotments, to be portioned out to those who had previously been residing in the district. But these lands were not open to mortgage and they were inalienable without the consent of the Governor. The rest of the land was to provide commonage for registered holders. Each location was to be under the control of a board of three persons appointed by the Governor, but recommended by resident holders, the members to be actual land holders in the district, and appointed for one year, open to headmen as well as to others. Clause 6.

Extension grants of between half and one acre were to be made to any location member desirous of erecting a house on the commonage. Costs of survey for the 4 morgen farms were to be defrayed in the first instance by the Government, but within three months the claimant was to deposit half the cost of the survey and the stamp duty with the magistrate, the rest would be paid by the registered holder in equal annual instalments. Clause 11

Each holder was to pay a perpetual quitrent of 15/- for four morgen, and 3/- for every additional morgen. Default of payment was to result in the sale of goods, and if persistent default over the period of a year, then eviction from the land would

take place.

The Act recognised the native law of inheritance and primogeniture. This was wise in that it prevented subdivision of property, and the holdings. But the Governor reserved the right to define or change by proclamation the heritable property. Clause 19

This land did not carry with it the right to vote. "All land allotted under the Glen Grey Act shall for purposes of Section 17 of Act 14, 1887, be deemed to be held in communal tenure". Thus in the legal sense the Act did not grant individual tenure to the natives, and they had comparatively few rights over the land. They had no right to alienate; the rights of the Governor over the land were greater than those of tribal chiefs had been:- eviction for default in quitrent; government reservations; power of proclamation. Clause 26

The unfortunate Clause 33 imposed an additional tax upon the young men of the location to induce them to work in the Colony. All fit for labour if not a landholder were liable to pay 10/- per annum unless they could testify to three months work outside the location. Total exemption was granted to those who had worked for three years in the Colony. The Resident Magistrate was to determine whether the native was to be exempted or not, i.e. whether he had some definite work in the location. The proceeds of the tax were to be spent on trade and agricultural schools, but this point was obscured in the general outcry against forced labour.

It gave a great deal of power into the hands of the magistrate, and officials found it an unpleasant and difficult task to separate the idle and the industrious. The natives did not find it difficult Kelly, Glen Grey.

to pay the 10/-, but the principle behind the clause they would not tolerate. And to pay the tax was an admission of indolence.

The clause ultimately fell away through the difficulty in enforcing it and in assessing the amount of work which entitled a native to exemption. Very little was collected from this tax, but only one or two magistrates reported an exodus of natives to the Colony. In most areas the idle natives seemed to be few.

3330 passes issued Glen Grey.

Part IV of the Act deals with the very important provision for District and General Councils. In its application to Glen Grey, it involved the separation of that district from the adjoining area of Queenstown and Wodehouse, and thus its divisional council duties are clearly to be seen.

Clause 38.

The Council was to consist of 12 members, six nominated and appointed by the Governor, while the members of the Location Boards in Glen Grey and Lady Frere were each to select three of their number to be recommended for appointment. They were to hold office for three years. The Resident Magistrate, ex officio, was to preside at all meetings, and in his absence one of the committee was to be elected as chairman.

The Councils were given considerable rights, chiefly municipal and divisional, but including the right to levy a rate upon quitrent holders, and also a subsidiary labour rate. All the money raised was to go to local funds for progressive institutions. But the estimates had to be revised by the magistrate and reported upon by him.

Clauses 47 & 48

Although these were native councils, they were

definitely/...

definitely under the control of government officials; the small part they held in offering nominations from local Boards resolved itself into nothing, as the location Boards themselves were nominated. Practically everything could be revised or nullified by Clause 65 by proclamation of the Governor. Nevertheless, the Council was a forum where discussions could take place, and it was the forerunner of the General Council in the Transkei.

The District Council was intended to act as a Labour Bureau also, but in this capacity it did not function long.

The Act laid down strong liquor laws, but the Clause 64 Licensing Court was left the option of prohibiting the sale of liquor.

Regarding the Title Clause, it was not new. Rhodes had, in fact, taken it directly from the mission title at Mount Arthur, and this was simply a development of the location experiments with the Katberg Hottentots.

Merriman pleaded for a simpler title, and one at one-sixth of the cost. The expensive fees in Emigrant Tembuland (1881), £1. 3. per 6 morgen, had caused questioning, and it was agreed that a general survey would meet the case. However, the clause remained, and the principle of it was the important feature: permanency and non-alienation.

The Act proved a success. The five years between 1895 and 1900 do not indicate sufficiently how it operated, but it was considered ~~well~~ advisable

to/...

to extend certain clauses to the Transkei immediately.

On October 14th 1894, the greater part of the Act was proclaimed in operation in the district of Glen Grey, and in the four chief magisterial centres of the Transkei: Butterworth, Idutywa, Tsomo and Ngamakwe.

As, with most new measures, there was criticism. The Glen Grey survey caused discontent; the farms varied in size, and the natives were reported to be discontented, for, as the Act allowed of larger lands for headmen and efficient farmers, the usual cry of favouritism was directed against the magistrate. Most of the government natives got farms of 10 to 30 morgen. In all there were 6997 natives to receive grants, and the whole was divided into 18 locations.

Certain genuine cases of unfair division e.g. Zembesi, & George Hlanga, and Zembí.

The survey duty fell, unfortunately at the same time as the increased taxation. Hitherto, the natives had paid 10/- hut tax, but they now had to pay 15/- quitrent, payment of rates to the district Council, and possibly a labour tax of 10/-.

Rhodes on his visit to Glen Grey in 1895 listened to their complaints, but refused to hear their deputy (Mr. Kelly). Instead, he met the natives in open meeting, where the native speakers were all in favour of the system, and the agitators dared not voice their views. However, agitation died down early, and Jenner could report most favourably on land and council schemes in 1896.

The first Location Boards were elected in November 1894, and took office in the January following. Although practically nothing could be done during 1895, as the survey had not been

Sweeney.  
App. I. vi.11  
1896

commenced/...

commenced nor the commonages defined.

The District Council proved a success; the people responded, paid the rates and the Government tax, so that there was a balance of revenue over expenditure. The majority of the natives were exempt from the labour tax; and there was a remarkable absence of crime, "men have had something to interest themselves in, and many of the younger ones have gone to work". The fact that the land might be forfeited for theft helped to check this crime. In spite of two poor seasons, drought and locusts, the Glen Grey system did not weaken. (Evidence from Musgrave, Lady Frere.)

1895  
£1612  
£1611

Proclamation 352, of 1894 extended the Council system, as recommended in the Glen Grey Act, to four districts of the Transkei: Butterworth, Nqamakwe, Idutywa and Tsomo. The Clause regarding land title was not yet extended. Certain minor modifications were made in the Council. In Glen Grey the members of the Location Boards in each of the two field cercles select three members each for appointment to the District Council; in the Transkei the headmen in each district nominate four of their number for appointment by the Governor, and failure to nominate or to accept nomination might require appointment of a member by the Governor. In Glen Grey six are nominated, in the Transkei only two, and the full number of the Court is only six instead of twelve as in Glen Grey. The magistrates retain leading powers on the Councils. The magistrate not only nominates the headman originally, but convenes the Council meeting, informs the members of the subject to be discussed, decides any action to be taken and whether the matter is to go forward to the General

Council, or to the Governor. Members were to forfeit their seats for any important conviction, for ceasing to be landholders, or headmen, for leaving the community for more than three months or for failing to attend three consecutive meetings.

The General Council in the Transkei was to consist of two natives from each of the district Councils, nominated by the Councils, and four nominated by the Governor. Magistrates, ex officio, were to be members of this.

Whereas in Glen Grey, those natives not owning land under the Act were taxed to the extent of 2d in the £, and landowners had to pay 15/- in all, in the Transkei a flat rate of 10/- was levied on every adult man or woman, with a separate piece of land or a hut. The money raised was to be appropriated to various specific objects, including expenses of valuation; collection of taxes; payment of native officers and members, construction and maintenance of roads and bridges, tree-planting, eradication of burrweed (*Xanthium spinosum*), and scab; tolls and pounds; industrial and agricultural schools.

Works, services and estimates of expenditure had to be approved by magistrate and Governor, but the General Council could delegate the executive power to the district councils if this were to prove more convenient.

Under Regulations approved by the Governor, the Councils were given the right to deal with certain matters:

- 1 The control and management of locations.
2. Regulating of grazing rights on commonages, and of hut construction there.
3. Enclosing of lands.
4. Regulation of social customs, beer drinks,

and ceremonies.

An added right was given in 1896, when no new building could be erected on the commonage without the consent of the Council, and if arable land interfered with pasturing of cattle, other land might be allocated.

In January 1896 Elliot reported on the success of the Transkei Councils. Several meetings had been held. All matters discussed and resolutions of the district Council are brought forward by the General Council, and Elliot testified to the enthusiasm of the members.

G. 47. '96  
31. 1. '96

One of the matters that required adjustment was the matter of schools. Now that all the districts contributed equally to the District Rates, a redistribution of schools and grants was necessary. Dr. Muir recommended (27.11.95) that only government schools should receive aid from the Council. The number of mission schools made it appear a harsh measure, hence the present system of general grants had to be continued until "the Secretary General for Education made further recommendations and non-Government teachers could be warned of the change". (Resolution in the Council).

A survey of roads was needed, and the case of wattle plantations had to be inquired into; the Scab Act had to be enforced, and dipping tanks erected. The crowded state of the Territories, likewise, was discussed, and the chaotic squatting; a systematic and economic division of land for redistribution and intensive agricultural purposes would provide for the rapid<sup>ly</sup>/increasing native population. Elliot advised

that/...

that all necessary changes should be introduced slowly.

Although in January 1896, Elliot could report that the Council was active and progressive, a year earlier the Act had met with opposition, both in the Transkei and in Tembuland. The Section providing for District rates and the Labour Clause caused most opposition. Seditious meetings were held at Butterworth and at Nqamakwe. It was agreed that the Premier should be asked to meet the discontented group, and on March 22nd 1895, they put their case before him. He minimised the Labour Clause, and succeeded in appeasing the natives. Active opposition ceased. Registers were framed, and the collection of the district rate began. Pressure was needed to get the Labour Tax paid, and this was viewed with equal dissatisfaction by native and official alike.

G. 47. '96  
Ann. A.

The same suspicious spirit was seen in Idutywa until the full import of the Act was understood. They liked the idea of the Council, but desired a share in voting for its members.

Ann. B. '96  
W.T.  
Brownlee.

Court  
Scully found the Nqamakwe/a success once confidence had been restored by the Premier's visit; while in Tsomo, P.N. Watermeyer proclaimed that it filled a long felt want. For years the Fingoes here required some impetus to get them to help themselves. The voluntary tax of 2/6 which had begun in 1882 had practically ceased, and in 1893 there was open opposition to it. In 1894 Proclamation 352, again owing to Clause 33, was received with suspicion by some of the Fingoes, who believed they were to be driven to open opposition and then deprived of their land. A group of semi-educated natives led by Caleni stirred them up. They refused to

pay/...

pay the district tax, and ultimately the magistrate had to threaten imprisonment. This had a salutary effect, and once the Council system was understood, suspicion died down. The native paper 'Imvo' had condemned the Act on the score of Clause 33, and, thereby, done the Government much harm. Fortunately, the Clause very soon became obsolete.

Within a year, a seat on the Council was looked upon as a coveted honour; the effect was seen in local improvements in each district and in the schools, which were to receive regular and enlarged grants from the General Council Fund.

The year 1896, opened with some unrest in the Transkei, due partly to political disturbance in the Colony itself after the Raid. Native soothsayers tried to stir up the country, but they could not hold the people as before: newspapers; travel; education; had had their effect. In that year, the Abakweta and Intonjane dances were again strictly prohibited, and rioting at beer drinks made a punishable offence. Socially and economically the natives had improved, crops and pastures were more productive; missionaries, doctors and educationists were numerous, although the last group had not yet taught the native that there was any connection between learning and labour.

Blue Book  
1897

In the outlying districts conservative headmen and chiefs were still fighting westernisation, but the obvious progress elsewhere drew even the ignorant natives on to the side of the Government.

When things looked most fair, drought and rinderpest swept like a scourge over the border and the Transkei in 1897. For some months it was impossible to carry on the usual tax collecting and courts.

G. 42  
1898

"This/...

"This drought will at least encourage a scheme of water storage and irrigation" wrote Sweeney from Glen Grey, "for although many are hardworking and progressive, a great number still look with suspicion on the white man's methods. From the former are drawn those who are carrying out the provisions of the Glen Grey Act. I cannot speak too highly of the machinery of this."

In the Transkei the value of inoculation for the cattle was only recognised slowly by the natives, when the rinderpest plague carried off nearly 80% of their stock, in spite of the indefatigable work of the magistrates like Scully. The genuine help rendered by the Government was appreciated by the natives. The set-back was temporary, and the following season with commendable determination they set to work with gardens and stock again.

G. 42.  
1898.

Blue Book  
1899

At the same time, there were further remarks on the new system. "In areas where titles have been issued, they like the individualism the system confers as compared with the old tribal system, under which each unit of the tribe might suffer for acts committed by the chief, although they had only obeyed orders. They are developing personal responsibility and do not object to the 10/. tax". This, of course, only applied to the civilised parts of the Territories. In Bomvanaland and Galekaland, and part of Tembuland the tribal system obtained.

Fingoland had adopted so readily the principles of the Act, and had years before signified willingness to have land surveyed, that preliminaries were set on foot almost immediately for the issue of titles to Butterworth.

Opinion in Nqamakwe and Tsomo was divided, but Kentani was preparing in the same way as Butterworth.

Five years later, in 1903, by Proclamation 152, the District Council was extended to Engcobo, Kentani, Mount Fletcher, Mount Frere, Mqanduli, Qumbu, Tsolo, Umtata and, with the four, Butterworth, Idutywa, Nqamakwe and Tsomo, completed the districts.

Confidence in the Government, wavering in 1890, and threatening even the work of the early magistrates by a gradual return to petty chieftainships, had now been quite restored, and the officials did not fear to press a change in land system following the Council system.

In November 1898 a select committee on the working of the Glen Grey Act issued a report and published evidence taken regarding the Act. Officials and others, including natives, gave a favourable report, with the exception of the Labour Clause. Certain other clauses were open to criticism, and a number of suggestions were acted upon by the Government in 1899, when the Glen Grey Amendment Act was passed.

In connection with primogeniture succession, to the next male heir (to the detriment of wife or daughter) a clause was added "after lifetime of wife or daughter or until marriage." In native law according to Jabavu, the mother would retain occupation but the son would work the land.

A second amendment increased land extension to  $\frac{3}{4}$  of an acre.

A third amendment permitted Mount Arthur and similar missions to be constituted separately instead of falling into the Glen Grey magisterial district.

The/...

The claim made by some of the chiefs for the right to elect their councils was not entertained, and the Council in Glen Grey and beyond remained very much under government control.

As a concession to the claims made by several chiefs, Act 16, 1899, granted lands to them upon a quitrent basis (1/- per 100 morgen) inalienable and indivisible. In the same year, Parliament attempted to keep more check upon the recruiting of natives by insisting upon labour agents being licensed - Act 6, 1899, although this was not enforced thoroughly enough, and a great deal of corruption was to be found among recruiting agents. This was the worst **aspect** of life in the Territories at this date. Besides the diseases brought back by the men, the demand for liquor was stronger than ever among the Tembus. Officials themselves were not always scrupulous about this. Rhodes questioned the need for "seven canteens in Umtata, and one every 12 miles along the main road through the Territories". In 1902, Proclamation 238 was issued, enforcing total prohibition, except when a native had a permit from the magistrate.

In the main, the Glen Grey Act appeared to be fulfilling its functions by 1900; no just nor full estimate can be made of it, since it had not been fully extended at that date nor the development resultant upon its chief clauses complete.

It tended, however, to bring peace by destroying the leadership and ambition of the chiefs, and substituting that of the Government; it maintained the system of open discussion; it tended to advance the material welfare of the natives by

promoting/...

promoting agriculture, and by preventing subdivision, squatting, neglect of arable land, overcrowding, retrogression through conservatism; it tended to draw the natives from such tribal customs as polygamy; to discourage degrading practices; to encourage education. Above all, it secured the land to the native and prevented European encroachment.

Statistics prove that a prosperous native community had been established, and one at peace with the neighbouring Europeans. In the administrative sphere the magistrate remained the deciding factor, as he had been throughout the formative period 1870 - 1900.

Appendix.

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APPENDIX

Population and Wool Production Statistics.

Districts' Population - 1903

IDUTYWA	26,000 Natives	230	Europeans
NQAMAKWE	30,256 "	173	"
TSOMO	17,500 "	150	"
KENTANI	29,500 "	110	"

Wool Production 1903. Sold Profitably to the Colony.

IDUTYWA	1800 bales of wool
NQAMAKWE	1½ - 2 million lbs. weight of wool
TSOMO	150,000 lbs. weight of wool
KENTANI	200,000 lbs. weight of wool.

The Districts were more than self-supporting in grain and mealies.

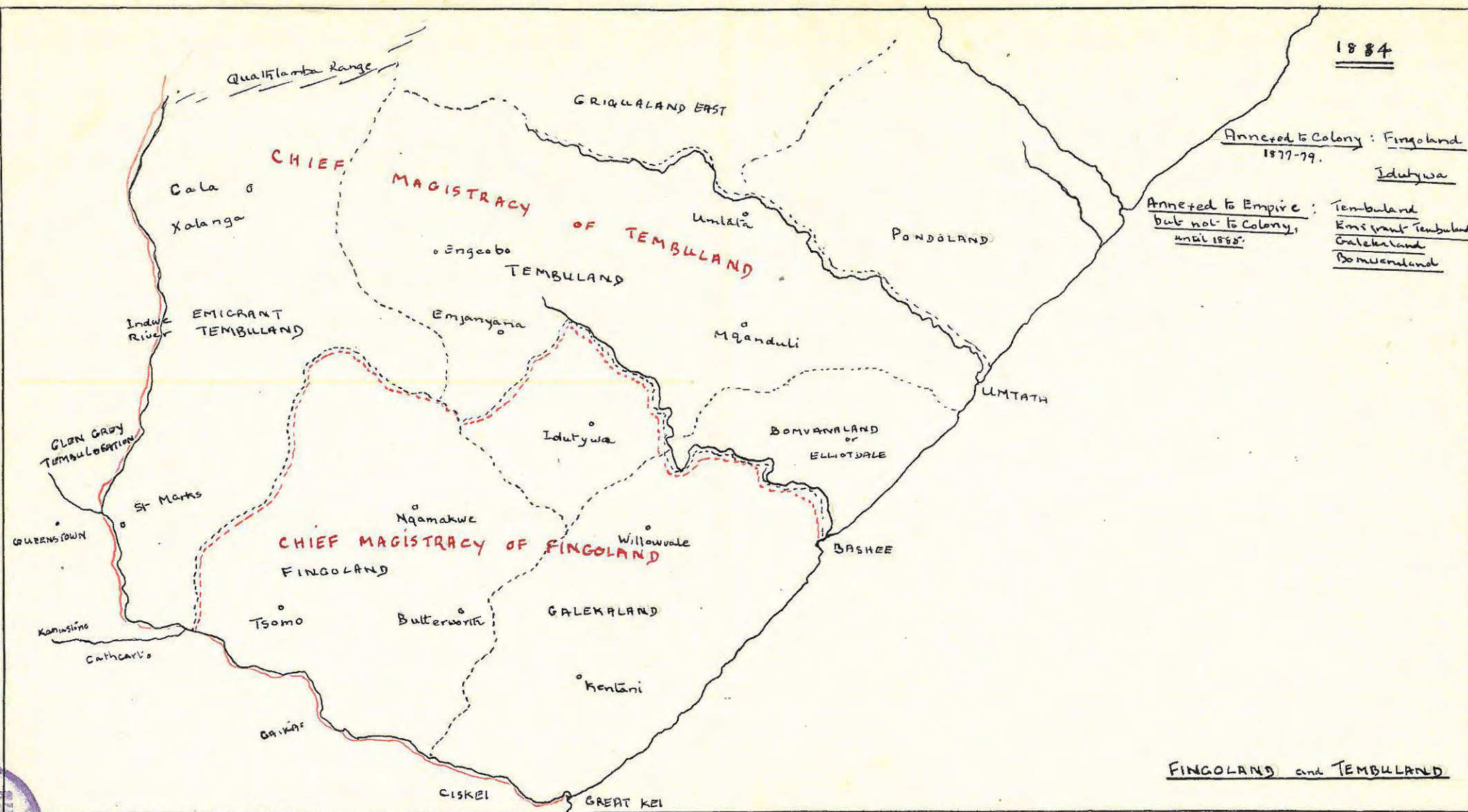
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1884

Annexed to Colony: Fingoland  
1877-79.

Idutywa

Annexed to Empire: Tembuland  
but not to Colony, Emigrant Tembuland  
until 1885. Galesland  
Somersland



FINGOLAND and TEMBULLAND



## BIBLIOGRAPHY

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- Blue Books on Native Affairs 1875 to 1902 ,Colonial and Imperial.  
Annexures to Votes and Proceedings in the House of Assembly,  
Parliamentary Papers on Kaffir Tribes.  
Report of the Tembuland Commission. 1882.  
Report of the Glen Grey Commission. 1892-94.  
Report of the Labour Commission. 1892.  
Reports of the Native Laws and Customs Commission 1883.  
Letters from the S.N.A. to the Magistrates of the Transkei  
(Unpublished) and Tembuland.  
Letters from the Magistrates of the Transkei and Tembuland  
(Unpublished) to the S.N.A.  
Report of the Native Affairs Commission 1903-5.  
Press Reports of Speeches in the House, and of Affairs in  
the Native Territories.  
Statutes and Acts of the Cape Parliament.  
Hansard 1885 to 1896, and Select Committees' reports.  
Report of Commission to inquire into the working of the  
Glen Grey Act.  
The Glen Grey Act- essay -Rose-Innes.

## LIBRARIES

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- Cape Town Public Library .  
House of Assembly Library, Cape Town.  
The Cape Archives, Queen Victoria Street Cape Town.
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