

THE CASE OF JAMES ERITH, 1820 SETTLER,  
AND HIS STRUGGLE FOR COMPENSATION.

A Thesis for the Degree of Master of Arts,

by

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## PREFACE

James Erith, a freeholder of the County of Kent, was one of the "1820 Settlers" who emigrated to the Cape and were settled mainly in the Zuurveld in the present district of Albany. This investigation was prompted by the fact that though he was by no means the only settler to suffer misfortune and injustice, he was the only proprietor of a small party who eventually secured compensation. The case was the case of James Erith: but the initiative and persistence was that of his wife, Jane Erith, who made in all five voyages spread over twelve years, before she secured some at least of the ends she sought and the family settled in Cape Town. The Eriths fought their case with the respective Colonial Offices for twelve years in all, and in the case of the Colonial Office, London, confronted no less than four Secretaries of State in five successive Cabinets. In the course of their struggle the Eriths received (a) the balance of their deposit; (b) cash compensation for cattle stolen by the Khosa, and in the final arbitration in 1832 the sum of £500 cash.

James Erith, master baker, remains a rather shadowy figure, sharp-sighted to his own interest, querulous and not very effective. The triumph of 1832 was in the main the triumph of Jane, his wife, an amateur and robust <sup>o</sup>partia. Shrewd, tenacious, deft in argument this importunate woman knew how to stand her ground; there can have been few women who secured passage on a naval vessel and then allowed the Admiralty to submit its account to the Colonial Office. How the Eriths subsisted between their eviction from Waaye Plaats in 1823 and the arbitration award of 1832, has not been established. On occasion in London Mrs. Erith stayed with the Rev. R. Stewarts, Rutland House, Black Heath Road in Greenwich: in Cape Town it is believed that Erith plied his old trade. When he died there, in 1869 at the age of

seventy nine, he left a house and three cottages to his daughter Ellen: mortgaged property in the district of Caledon, to his son-in-law George Budge: a house and three mortgaged properties in Simon's Town to his daughter Anne Budge. He also left an income of £24 per annum to his daughter Jane Moodie, widow of the late John Powell.

The records used in this study, in addition to those printed in Theal, were the series C.O. 48 from the Public Record Office, London, now available on microfilm in the Cory Library at Rhodes University and records of the District of Albany in the Archives, Cape Town.

The investigation has, it is thought, thrown new light on the background to the emigration scheme of 1819, on the mishandling of some of the Settlers in the Zuurveld after their arrival in the Cape, and on the punctilious attention to detail given by the Colonial Office, London. While it is true that the interests of the Briths were probably smothered in the Tory endeavour to damp down the attack on Somerset in 1826-1827, the Secretaries of State are by no means discredited by this analysis. It says much for any pattern of administration that in the thick of the Reform Bill crisis, the efforts of a single obscure member of Parliament, Mr. J. Briscoe, could secure a final arbitration award.

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Signature of William Menzes.	to face page 30.
A variation of Menzes' signature.	to face page 31.
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A sample of Jane Brith's handwriting.	to face page 94.

### ABBREVIATIONS

The following abbreviations have been used in this work.

A.Y.	Records of the Drostdy and Magistracy of Albany.
A.Y.B.	Archives Year Book for South Africa.
Beaglehole	Beaglehole, J.C. <u>The Colonial Office 1782-1854.</u>
B.I.H.R.	Bulletin of the Institute of Historical Research.
C.J.	Records of the Court of Justice.
C.H.B.E.	Cambridge History of the British Empire.
C.O.	Records of the Colonial Office, London.
Cory	Cory, G.E. <u>The Rise of South Africa.</u>
Edwards	Edwards, I.E. <u>The 1820 Settlers in South Africa.</u>
Hansard	The Parliamentary Debates. Edited by T.C. Hansard.
H.L.	House of Lords; Reports from the Select Committees on Emigration from the United Kingdom, 1826-1827.
Hockly	Hockly, H.E. <u>The Story of the British Settlers of 1820 in South Africa.</u>
Knorr	Knorr, K.E. <u>British Colonial Theories 1750-1850.</u>
L.A.C.	<u>The Lower Albany Chronicle.</u> Edited by E.M. Jones.
Manning	Manning, H.T. <u>British Colonial Government after the American Revolution 1782-1820.</u>
M.P.	Maps of the 1820 Settlement Locations.
M.P.G.	Public Record Office Map of the 1820 Settlement Locations.
Notts.	Thoroton Society of Nottinghamshire: <u>Nottinghamshire Settlers in the Cape of Good Hope, 1820.</u>
Records	<u>Records of the Cape Colony.</u> Compiled by G.M. Theal.
Young	Young, D.M. <u>The Colonial Office in the Early Nineteenth Century.</u>

CHAPTER I

THE COLONIAL OFFICE AND EMIGRATION IN  
THE EARLY NINETEENTH CENTURY.

1.

Whether or not one accepts Harlow's thesis that the loss of the American Colonies ushered in a new era in Imperial History,<sup>1</sup> it is a fact that the early nineteenth century saw the increase and enlargement of new colonies of settlement. Almost logically there follows the development of the Colonial Office as the central organ of their government in a country which was itself experiencing new political and economic pressures. Change was not only complex but also gradual, and the Colonial Office was still in the process of reform, when it began to investigate the possibility of planned emigration as part solution to the problems of post-war Britain. Two factors in particular help to explain the developments of the Colonial Office in the early nineteenth century: the one was administrative reform, the other the long wars with France between 1793 and 1815.

The impetus to administrative reform in Great Britain can be traced back to 1780, when Lord North set up the Treasury Commission.<sup>2</sup> The task of reform was subsequently quietly pursued by successive ministries. This involved not merely a series of investigations into the civil list, but also the re-organisation of departmental administration. The growth and reform of the Colonial Office was not then an isolated phenomenon. It was part of the silent administrative revolution which helped to lay the foundations of the nineteenth century state. It was a process which owed much to the work of William Pitt the Younger.<sup>3</sup>

The office of a Third Secretary of State for Colonies had first been set up in 1763.<sup>4</sup> The office had been abandoned,

1. Harlow, V.T. The Founding of the Second British Empire 1763-1793.
2. Binney, J.E.D. British Public Finance and Administration 1774-1792, pp. 7-14.
3. Beaglehole, p. 171. ✓
4. Wright, M. The Development of the Legislative Council, p. 40.

after the loss of the American Colonies by Burke's Establishment Act of 1782.<sup>1</sup> It was restored however, within twelve months of the outbreak of war with France. On July 11th 1794, Henry Dundas the close confidant of Pitt,<sup>2</sup> was appointed Third Secretary of State.<sup>3</sup> The affairs of War and Colonies were to be his concern, although the colonies were not transferred from the Home Office to the office of Secretary of State for War until August 1801.<sup>4</sup> At first the combination of the two departments under the Secretary of State for War and Colonies was disadvantageous to the Colonies.<sup>5</sup> This was partly because of the war and partly because staffing and organisation was not adequate. Improvement had already begun however in 1810 before the appointment of Lord Bathurst.<sup>6</sup> When he handed in his seals of office in 1827, a surprising degree of working autonomy and efficiency had been achieved in the office.

Opinions differ as to the rôle that Lord Bathurst played in the development of the Colonial Office. It has been argued by Isobel Edwards and J.L. Morison that he was not responsible for any reorganisation or improvement of the office.<sup>7</sup> Edwards goes further and regards him as a nonentity.<sup>8</sup> This was also the view of the London Times when on Lord Bathurst's resignation in 1827, it said 'never was tolerated a worse Colonial minister than the unrespected Lord'.<sup>9</sup> More recent research

1. Wright, M. The Development of the Legislative Council, p.40.
2. Furber, H. Henry Dundas, First Viscount Melville 1742-1811, p.X.
3. infra. Appendix A.
4. This bi-cameral combination continued until June 1854 when Colonies and War were split into their own Departments. Significantly this was during the Crimean War, the first major war in which Britain was involved after 1815.
5. Young, p. 12.  
Manning, p. 475.
6. infra. Appendix A and B.
7. Edwards, p. 1-2.  
C.H.B.E. Vol. VI, p. 261.
8. Edwards, p. 1.
9. Young, p. 103.

has modified this view. C.K. Webster in his first published volume on Castlereagh supports the views held by Edwards and Morison.<sup>1</sup> Indeed Edwards uses his views to support her argument.<sup>2</sup> Webster, however, in his second volume, published some four years later, completely modifies his views on Lord Bathurst, both as a man and as a Cabinet Minister.<sup>3</sup> More recently Lord Bathurst has been considered by both D.M. Young and J.C. Beaglehole to be the founder of the modern Colonial Office.<sup>4</sup>

Earl Bathurst was not a dynamic or over-powering man, but rather self-effacing, with the attributes of discretion and loyalty.<sup>5</sup> He had an excellent memory, a well-informed mind, and the rarer quality of attracting good men to his service.<sup>6</sup> At the age of twenty-one Lord Bathurst had entered political life as one of the Lords of the Admiralty. In 1807 he first entered the Cabinet as President of the Board of Trade, whose work was necessarily intimately connected with the Colonies. In what was to become in the nineteenth century a classic pattern, he was moved in 1812, from the Board of Trade to become Secretary of State for War and Colonies.

Lord Bathurst was a High Tory in domestic politics,<sup>7</sup> but this did not mean that he opposed change within the Colonial Office, and in the words Sir Robert Peel was to make famous,

1. Webster, C.K. The Foreign Policy of Castlereagh 1815-1822, p. 15.
2. Edwards, p. 1.
3. Webster, C.K. The Foreign Policy of Castlereagh 1812-1815, p. 35.
4. Young, p. 18-19.  
Beaglehole, p. 177.  
Beaglehole, J.C. The Royal Instructions to Colonial Governors 1783-1854. B.I.H.R. Vol.7, 1930.
5. Webster, C.K. The Foreign Policy of Castlereagh 1812-1815, p. 35.
6. Young, p. 18-19.  
Beaglehole, p. 177.
7. Roberts, M. Lord Charles Somerset and the "Beaufort Influence". A.Y.B. 1951, Vol.2, p.30.

he saw to "the correction of proved abuses and the redress of real grievances."<sup>1</sup> The process of change in the office began sometime during 1810 when the office was divided into the Colonial and War departments.<sup>2</sup> A Parliamentary Under-Secretary was placed at the head of each department with the Secretary of State in over-all control. By 1812 the office employed a full-time staff of eighteen.<sup>3</sup> In 1814 the office reached its maximum development during the war. The office was expanded so that the staff numbered twenty-six; ten in the Colonial Department; ten in the War Department and six employed in a General Department.<sup>4</sup> After the war, a combination of financial stringency and natural contraction of the War Department forced the Third Secretary to cut down his staff, so that in 1816 the office only employed a staff of fourteen.<sup>5</sup>

On August 4th 1812 Lord Bathurst appointed as his Parliamentary Under-Secretary Henry Goulbourn, a friend of Peel, who remained in this position until December 11th 1821.<sup>6</sup> It was essential for the efficient running of the office that the Secretary of State and Parliamentary Under-Secretary combined well together. Lord Bathurst chose well, for he enjoyed a happy association with Goulbourn. Goulbourn was efficient, very conscientious, systematic but like Bathurst lacking in imagination.<sup>7</sup> It was however doubtful whether

1. Peel, Sir Robert. Memoirs, Vol. II p. 62.
2. Young, p. 21.
3. infra. Appendix C.
4. ibid.
5. infra. Appendix C.
6. infra. Appendix A and B.
7. Beaglehole, p. 178.  
Young, p. 46.

in 1812 the Colonial Office would have benefitted from too much innovation.<sup>1</sup> What was first needed was an orderly and efficient procedure. Under the guidance of Lord Bathurst and Goulbourn this was achieved. It was necessary because in the first place there had been an increase in the number of Colonies to administer, and also an increase in the volume of correspondence. In 1806 the number of letters handled by the office was two thousand five hundred and fifty-five. This number had increased by 1824 to 12,450.<sup>2</sup> In the second place an orderly and efficient office could adapt itself more easily to reorganisation as new policies developed. The result of the efforts of Bathurst and Goulbourn was that order was brought to colonial government and the Colonial Office had "established its place in the framework of British Administration".<sup>3</sup>

From 1822 onwards, when significantly Lord Liverpool re-shuffled his Cabinet, reform within the Colonial Office was accelerated. The appointment of J. Wilmot-Horton as Parliamentary Under-Secretary in December 1821 was to prove decisive. The initiative seems to have been his;<sup>4</sup> but action could not have followed without the intelligent and persistent support of Lord Bathurst. Wilmot-Horton was an enthusiastic progressive. He was not as systematic as Goulbourn, but was hard working, forceful, eager to see the Colonies well served by the Colonial Office and above all, like his predecessor worked well with his chief, Lord Bathurst.<sup>5</sup>

1. Beaglehole, p. 178.
2. *infra*. Appendix C.
3. Young, p. 46.
4. *ibid*. p. 52-3.  
*infra*. Appendix A.
5. Young, p. 53.

The process of reorganisation began almost immediately. In 1822 began the great task of overhauling the Royal Instructions given on appointment to each Governor.<sup>1</sup> The preparation of 'Blue Books' was commenced and most important of all, Legal Commissions, of which J.T. Bigge's Commission to New South Wales was the prototype, were sent to all parts of the Empire to review and report on the system of Government in each colony. In 1824 ecclesiastical reorganisation was undertaken, while in the period 1824-5 Governors' Councils, in those colonies where they did not already exist, were established as Advisory bodies. At this time also, the Colonies were divided for administrative purposes into four convenient geographical groups, with a senior clerk in charge of each group. In addition one clerk was appointed to deal specifically with the affairs of one colony.<sup>2</sup> This resulted in 1825 in an increase in the Colonial Office staff in London, to twenty-seven full-time employees.<sup>3</sup> This was an increase of thirteen over the 1823 staff, but also Horton saw to it that when the older clerks were retired, they were replaced by efficient people: new offices were filled only after careful scrutiny of applicants.<sup>4</sup> There was at this time, no competitive examination for aspiring civil servants. The personnel of government offices still gained their initial appointments by patronage. The Colonial Office differed not in method, but the quality of its appointments were usually higher than in most other Departments.<sup>5</sup>

1. Beaglehole, J.C. The Royal Instructions to Colonial Governors 1783-1854. B.I.H.R. Vol.7, 1930.
2. infra. Appendix C.
3. infra. Appendix C.
4. Young, p. 64.
5. Galbraith, J.S. Reluctant Empire: British Policy on the South African Frontier 1834-1854, p. 16.

Two changes in the structure of the office were of particular importance. In the first place a Permanent Under-Secretary was appointed. This was a big step forward, since previously one of the major drawbacks in the organisation of the office, was that there was no permanent official, who could effectively ensure continuity and co-ordination in the office. This was because all responsibility and initiative stemmed either from the Secretary, his Under-Secretary or <sup>not piky</sup> his Private Secretary: these were Parliamentary appointments and liable to dismissal with each change of government. In the second place a full-time legal advisor was appointed - James Stephen, Junior, who had been employed by the Colonial Office on a part-time basis since 1813. Now that he was employed full-time he could devote all his powerful energies to the Colonial Office. Stephen was a lawyer of considerable merit. Through the influence of his father, and William Wilberforce, an intimate family friend, Stephen was soon involved in the fight for the abolition of slavery in the colonies. It is indicative of his character that he forsook his highly flourishing private practice to become legal advisor to the Colonial Office - a move which involved some considerable financial loss for him.<sup>1</sup> His work, at this stage,<sup>2</sup> was to review all colonial constitutional matters, despatches and Governor's instructions. His work was of inestimable value to the Colonial Office.

The Colonial Office though not alone in the process of reform and reorganisation

1. Knaplund, P. James Stephen and the British Colonial System 1813-1847, p. 14.
2. Stephen was appointed Permanent Under-Secretary in 1836 and held office until 1847.

increased its establishment at this time.<sup>1</sup> By 1827 much had been achieved by Lord Bathurst. Correspondence was answered promptly, problems studied, advice given and policy decided upon. The structure of the office was in many ways responsible for the efficient manner in which business was conducted. Lord Bathurst held a firm grip on the office. He trusted his subordinates and was able to devolve on them a large part of the administrative detail.<sup>2</sup> This in turn freed him from unnecessary occupation with details and left him free to turn to the greater questions of policy. It also had the effect of expediting business, since sometimes, if business was urgent, the senior clerk would consult directly with the Secretary of State, thus by-passing the Under-Secretary. Official procedures were then flexible and worked extremely well under a Secretary of State who was familiar with Colonial affairs.<sup>3</sup>

The status of the position of Third Secretary of State has often been underestimated. Though the Colonial Office did not carry the prestige of the Foreign Office or Treasury, it was not, says Galbraith, an office to be filled by 'political hacks' or 'young men on the make'.<sup>4</sup> Though Galbraith was writing about the period 1834-1854, it is also true for the period 1809-1834, the only exception being Sir George Murray.<sup>5</sup> The other Secretaries were all experienced politicians and administrators and full members of the various Cabinets in which they served. The prestige of the Office was such that a former Prime Minister, like Goderich, did not

1. Young, p. 81.

2. *ibid.* p. 92.

3. *ibid.* p. 94.

4. Galbraith, J.S. Reluctant Empire: British Policy on the South African Frontier 1834-1854. p. 17.

5. Young, p. 111.

feel it beneath his dignity to accept the position.<sup>1</sup> Colonial matters were important and it was essential that the Third Secretary be a competent as well as a good Cabinet man. Slavery, throughout this period was a controversial major issue which required very careful handling. Another important issue was that of Colonial Finances. During this period the problem of controlling and limiting expenditure on the Empire was a constant headache for the Treasury.<sup>2</sup> The rise in the importance of the Office can also be seen in the increase in Colonial Office papers prepared by the Office, to be laid before the House of Commons. In 1816 only fourteen papers, filling two hundred and forty-six printed folio pages were laid before the House of Commons. Only nine years later, thirty-six papers filling two thousand, two hundred printed folio pages were laid before the House.<sup>3</sup>

By 1827 the Colonial Office was an important and efficient office of State and closely involved in the business of decision making. The question arises, however, of how Colonial policy was formed. While some argued that the Colonial Office slowed down colonial development by petty interventions and procrastination, others argued the lack of a central directive force. It appears that it was exceptional for policy to be determined by the Cabinet. Only issues such as slavery, emigration and colonial finances were discussed at Cabinet level.<sup>4</sup> It is difficult to pronounce with finality on the subject since there was no Cabinet secretariate

1. Jones, W.D. Prosperity Robinson. The Life of Viscount Goderich 1782-1859, p. 215.
2. Galbraith, J.S. Reluctant Empire: British Policy on the South African Frontier 1834-1854, p. 17.
3. Young, p. 284.  
infra. Appendix C.
4. Young, p. 175.

and its procedure was that of an informal committee: no records exist of its meetings.<sup>1</sup> During the period 1812-1827 it would seem apparent that Colonial policy was determined by Lord Bathurst, and his principle advisors, Goulbourn and after 1821, Wilmot Horton and James Stephen, Junior. This was because Lord Bathurst was a senior member of the Cabinet and a close confidant of Lord Liverpool, who in turn was not noted for forcing policy on any of his Cabinet colleagues.<sup>2</sup>

This system was continued by Lord Goderich and William Huskisson.<sup>3</sup> There was, however, the period May 1828 till November 1830 when the Third Secretary did not control policy. This was during Sir George Murray's tenure of office. Policy was decided by the Duke of Wellington, Lord Bathurst, who was then Lord President of Council and Goulbourn, then Chancellor of the Exchequer. Murray was treated very much like a Senior Clerk.<sup>4</sup> When, however, he made way for Lord Goderich in November 1830 the position returned to normal. The Third Secretary then was allowed a relatively free hand with which to control the policy of the Colonial Office. He was, however, always liable to be censured in Parliament. Between 1815 and 1830 there were few debates on Colonial affairs, apart from those on slavery, trade and emigration. A study of the topics debated reveals that in any one session there were on an average, ten or so debates, three-quarters of which were on slavery and trade. It was rare indeed for the affairs of a colony to be debated in the Houses of Parliament.<sup>5</sup>

1. Young, p. 174.
2. infra. Appendix B.
3. infra. Appendix A and B.
4. Young, p. 110-111.  
infra. Appendix A and B.
5. Hansard, 2nd Series, 1815-1830.

The reasons for this were two-fold. There were few members of the House of Commons who knew anything about Colonial Affairs. This is shown, for instance, by scrutiny of the debates held on colonial issues during this period and in particular, the debate of 25th July, 1822, on the proposed establishment of a Commission of Enquiry for the Cape of Good Hope, Ceylon and the Leeward Islands.<sup>1</sup> In this debate, controversial in so far as these colonies were concerned, only five members of the House spoke, two of whom, Wilnot Horton and Goulbourn, were either members or past members of the Colonial Office.<sup>2</sup> The field of Colonial policy did not lend itself easily to being manipulated by the opposition to defeat the government.<sup>3</sup> To the contrary, there is evidence that in a political crisis the Secretary of State starved the opposition of the relevant facts.<sup>4</sup> It was thus difficult for the opposition to argue logically and forcefully on a subject about which they relied for their information, in many cases, on unreliable sources. This is demonstrated in the case of the intended impeachment of Lord Charles Somerset,<sup>5</sup> when his antagonists had to rely almost exclusively for their information and facts on Mr. Bishop Burnett, a most unsatisfactory source, as was admitted by Brougham. In presenting Burnett's petition he stated "that he did not intend to make himself liable for the truth of the petitioner's statements".<sup>6</sup> Hume, another of Somerset's accusers, also

1. Hansard, Vol. 7, pp. 1,783-1,844 : 1,850-1,851.

2. ibid.

3. Roberts, M. Lord Charles Somerset and the "Beaufort Influence". A.Y.B. 1951, Vol.2, p.28.

4. Edwards, p. 135.

5. infra. Appendix B.

6. Hansard, Vol. 13, p. 1,166.

admitted that "they were really ignorant of the situation in the colony...".<sup>1</sup> In the end, the Fabian tactics of the Ministry succeeded. The case fell down and the motion was withdrawn.<sup>2</sup> Thus during this period, Parliament, and indeed party politics, played a small part in determining colonial policy.<sup>3</sup>

Many, then, of the conceptions generally held about the Colonial Office and its personnel do not stand up to scrutiny. The Office was controlled by some of the most able politicians of the day. The Office itself was completely reorganised both structurally and administratively, so that by 1825 it was efficient and well-informed about the colonies it controlled. The efficiency, tact and patience with which the Office dealt with business is seen most clearly in the Brith case.<sup>4</sup> The working of the Colonial Office can also be seen in the sphere of emigration. This is a field of study in which much valuable information can be obtained. Emigration increased in importance throughout this period. Indicative of this were a number of factors: The increase of debates held on the topic of emigration during this period,<sup>5</sup> the Governmental sponsoring of emigration schemes in 1820, 1823 and 1825, and the setting up of the Select Committee on Emigration in 1826.

Closely allied to the question of emigration were the various theories held by the British regarding the Empire at the time. One theory stressed that colonies should be of settlement, since only by bonds of sentiment, race and institutions could the Empire remain unified. A conflicting

1. Hansard, Vol. 16, p. 303.
2. ibid. Vol. 17, p. 1,427.
3. Roberts, M. Lord Charles Somerset and the Beaufort Influence", A.Y.B. 1951, Vol. 2, p. 31.
4. C.O. 46/148.  
49/20;22;24.
5. Hansard, 2nd Series, 1815-1830 passim.

theory stressed the economic importance of colonies. They feared that colonies of settlement would all become rebellious after the fashion of the thirteen American colonies. Colonial trade was considered the primary importance of colonies. The loss of the American colonies caused much heart-sore, confusion and a greater amount of hard thinking about the Empire. Contrary to some opinions, the latest research reveals that British statesmen did not reject colonies of settlement. Rather there "was the dogged determination to hold fast to the possessions and exploitation of the remnants of the old Empire."<sup>1</sup> Despite the conflicting ideas, British statesmen, industrialists and merchants were at one in recognising the potential commercial value of the Empire.

Clearly then, if trade was so important, it was essential that the trade routes were protected, and the Empire made secure. British policy tried to effect these ends. This was evident at the Congress of Vienna. Castlereagh's attitude is stated most explicitly in his 'Memorandum on a Maritime Peace', in which he states, among other points, that the British Government would adhere to a policy which would "effect essentially the engagement and security of their own dominion".<sup>2</sup> Although this by no means explains British policy in its entirety it was one facet of the policy. It was a policy to which he adhered at the Congress so that every acquisition by Britain was of strategic importance and would secure British trade routes.<sup>3</sup> In fact, except for the former Dutch colonies, the Cape of Good Hope and Guiana, all other acquisitions were islands.<sup>4</sup> The Cape, "the Gibraltar of the

1. Knorr, K.E. British Colonial Theories, 1750-1850, p. 209-211.
2. C.H.B.F.P. Vol. I. p. 431.
3. Woodward, L. The Age of Reform, p. 365. C.H.B.F.P. Vol. II. p. 279.
4. Malta, Heligoland, Ceylon, Tobago, Santa Lucia and Mauritius.

Southern Oceans" was of course, one of the most important strategic ports in the world.

During the Revolutionary and Napoleonic Wars the attention of the British nation was focussed on the security of the Empire. This did not mean that the idea of colonies of settlement were rejected. Emigration indeed had been frowned upon, but for economic and not colonial reasons.<sup>1</sup> The influence of sixteenth century economic theorists, who argued that emigration would not be beneficial to the economy of the country, was still being felt in Britain at this time.<sup>2</sup> The turn of the century saw a positive change in attitude and sentiment towards emigration.<sup>3</sup> This was due to probably interrelated factors - economic distress and the seeming over-population of Great Britain.<sup>4</sup> After 1815, due to a variety of causes, not least of which was the change-over from a war economy to a peace economy, there was much unemployment and under-employment, as witnessed in the tremendous growth of poor relief. The writings of Thomas Malthus emphasised the theory that population would outrun subsistence, for the latter can only expand in arithmetical ratio, while population increases in geometrical ratio.<sup>5</sup> Statesmen were confronted on the one hand with the problem of trying to solve unemployment and on the other hand a theory which implied it was impossible to solve. One method which presented itself was large scale emigration - a method which Malthus himself thought would improve the position.<sup>6</sup> The Government

1. Knorr, K.E. British Colonial Theories 1750-1850, p. 233.
2. ibid.
3. ibid.
4. Knaplund, P. James Stephen and the British Colonial System 1813-1847, p. 66.
5. Watson, S. The Reign of George III, p. 531.
6. Knorr, K.E. British Colonial Theories 1750-1850, p. 277. and H.L. p. 311.

*Editor here is omission of Por a in sequitur*

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was not eager however, to embark on such a scheme, since it would require a substantial expenditure, which the government, intent on a policy of retrenchment, was not prepared to meet.

Events forced the government to adopt a more positive approach. Continued economic distress, and the large-scale ~~of~~ emigration to the United States alarmed the authorities.<sup>1</sup> Though the government was averse to the idea of planned emigration to British colonies, it was even more perturbed over the loss of population to the United States of America. Hence efforts were made to deflect the stream of emigrants to her colonies. Since New South Wales was still a convict settlement, Canada and the Cape of Good Hope were then the only two colonies available for settlement. Emigration began cautiously after the close of the Napoleonic wars on a private basis: the government only helped to the extent of giving emigrants grants of land. Schemes were limited and localised. They consisted mainly of placing ex-servicemen on locations in Canada.<sup>3</sup> In this way Carleton County was settled in 1818. The 99th Regiment of Foot, after serving in Wellington's Peninsular Campaign and in the American War 1812-1814, had been stationed at Quebec. It was considered unwise to recall the Regiment in order to disband it in Britain. As a result, the soldiers were offered settlements in Upper Canada.<sup>4</sup> Earlier another military settlement had been set up in Peterborough County in 1816. In 1818 a small party from Cumberland settled in the same region. They were

1. Goldswaine, J. The Chronicle of Jeremiah Goldswaine, p.XIII. C.O. 48/44 Letter No. 593, W. Mylne to Colonial Office.
2. Knaplund, P. James Stephen and the British Colonial System 1813-1847, p. 67.
3. C.H.B.E. Vol. II, p. 282.
4. Guillet, E.C. Early Life in Upper Canada, p. 50.

followed in 1820 by some twenty families.<sup>1</sup> As can be seen, none of the schemes could in any way remotely alleviate the position in Britain.

Schemes to the Cape of Good Hope were on a different pattern. In 1817 Benjamin Moodie, the son of the Laird of Melsetter, carefully selected two hundred unmarried artisans from Edinburgh.<sup>2</sup> He undertook to pay their fare to the Cape and in return, they were to work for him for three years.<sup>3</sup> The scheme was successful in so far as the labourers found an abundant demand for their labour. Contrary to general opinion it was neither a profitable nor a successful undertaking for Moodie.<sup>4</sup> Many of the labourers broke their contracts without repaying him. In the following year there were two considerably smaller schemes conducted by a Mr. Gosling and Mr. Tait respectively. These schemes to the Cape indicated that there was a substantial demand for skilled labourers in the colony. Those to Canada showed that there was little or no demand for labour, but that after initial hardships, emigrants were able to settle down to a reasonably happy and comfortable existence.

By 1819 the government was clearly being driven by economic conditions in Britain to consider planned emigration. Here the Cape of Good Hope had two special claims to make. One was the desire of the Cape Government to settle a large population on the Eastern Frontier. It was hoped that they would become an integral part of the defence system of the Frontier. It was a plan which had been first proposed by Colonel Graham in 1812,<sup>5</sup> and which was taken up in 1818 by

1. Guillet, E.C. Early Life in Upper Canada, p. 50.

2. Cory, Vol. II, p.6-7.

3. ibid.

4. Burrows, E.H. A Study in Pioneering : The Moodies of Melsetter.

5. Cory, Vol. II, p.6.

the Governor, Lord Charles Somerset.<sup>1</sup> The Colonial Office for their part hoped that this scheme would reduce the expense of maintaining a large body of troops on that Frontier.<sup>2</sup> This would placate the Treasury which was intent on cutting down expenditure on the defence of the Empire.<sup>3</sup> Since moreover, Lord Bathurst wanted to defend departmental autonomy against Treasury intrusion, he was inclined to sponsor a plan which would theoretically make for the solvency of the Cape.

Apart from the question of defence, emigration to the Cape had more to commend it. The reports of the climate, soil and vegetation of the Cape were more favourable than those of Canada. This was important, since in many ways the scheme was experimental.<sup>4</sup> Obviously the sending of some five thousand people to the Cape would not in itself reduce the redundant population in Great Britain in any significant way. It was seen as a pilot scheme which would be watched carefully and, if successful, would be repeated. The fact that the scheme proved difficult to organise, that it cost the Treasury £36,000 more than was allocated by Parliament,<sup>5</sup> meant that the government was not keen to repeat the experiment. This is clearly shown in the minutes of the Select Committee of Inquiry on Emigration set up in 1826. The attitude adopted by the Committee, laid down in a resolution, was that there could be no assistance from National Funds unless "private or local contribution, in some shape..." formed "the basis of any system of emigration."<sup>6</sup>

1. Walker, E.A. A History of Southern Africa, p. 156-157.
2. Young, p. 38-39.
3. Galbraith, J.S. Reluctant Empire: British Policy on the South African Frontier 1834-1854, p.2.
4. C.H.B.E. Vol. II, p. 443.
5. Theal, G.M. History of South Africa 1795-1872, Vol. 5, p. 359.
6. H.L. p.1.

The 1820 Settler scheme was followed by schemes in 1823 and 1825 which settled Irish paupers in Upper Canada. This was an attempt to alleviate the plight of the Irish labourer. The absence of any system of Poor Relief, absentee landlords, ignorance and over-population combined to produce in Ireland a disastrous situation.<sup>1</sup> These three schemes in 1820, 1823 and 1825 were the only ones sponsored by the government. The great majority of emigrants emigrated on a private basis, poverty notwithstanding.<sup>2</sup> In 1823, for instance, the government assisted some one thousand emigrants, while sixteen thousand emigrated by private means.<sup>3</sup> In 1825 only a seventh of those who emigrated were assisted by the government, in a year when greater numbers than in 1823 were assisted. By 1831 the annual number of emigrants had risen to eighty-three thousand. It is estimated that in the quarter century after 1815 some one million people emigrated, the vast majority of whom received no assistance from the government.<sup>4</sup>

By far the greatest proportion of these emigrants sailed across the Atlantic to settle either in Canada or in the United States of America. A small proportion emigrated to the Cape, Australia, and in due course New Zealand, though the flow of free emigrants to Australasia only began after 1830. The conditions under which emigration was conducted in the various colonies varies considerably. The hardships suffered by the 1820 Settlers at the Cape of Good Hope have

1. C.H.B.E. Vol. II, p. 489.

2. ibid. p. 443.

3. ibid.

4. ibid.

often been described.<sup>1</sup> These hardships, however, pale in comparison with the hardships suffered by emigrants to Canada at the same time, and at later dates in Australia and New Zealand.<sup>2</sup> Emigrants to Canada were faced with the terrible conditions in the ships transporting them across the Atlantic. Kathleen Walpole shows, that in many cases the conditions were no better, and at times worse, than had been the case in slave transport ships.<sup>3</sup> The 1820 Settlers on the other hand, were shipped in naval transports. Conditions were tolerably comfortable. Naval rations were provided, as were doctors. The emigrants to Canada were provided with none of these facilities.<sup>4</sup> It was not surprising that the death rate on these ships was high. Once the emigrants arrived in Canada, they were faced with an extremely harsh climate, swamps, forests and systems of communications which frequently were unusable. Great distances had to be covered on foot. It was not unheard of in Carleton County for people to walk forty miles carrying seed wheat to their locations.<sup>5</sup> Undoubtedly, the 1820 Settlers did have to bear hardships, but these certainly were trifling when compared to those suffered by the early emigrants to Upper Canada.

1. cf. Edwards; Cory; Hockly and Theal.
2. Guillet, E.C. Early Life in Upper Canada.  
Hale, J. Settlers.
3. Walpole, K.A. Emigration to British North America under the Early Passenger Acts. 1803-1842,  
B.I.H.R. Vol. 7, 1930, p. 187.
4. ibid.
5. Guillet, E.C. Early Life in Upper Canada.

CHAPTER TWO

SOCIAL BACKGROUND OF THE SETTLEMENT.

The probable need for planned emigration first became clear after 1815. After the 1820 Settler scheme to the Cape of Good Hope and the two schemes to Canada in 1823 and 1825, Parliament set up, in 1826, the Select Committee on Emigration from Great Britain. The Reports of the Committee as well as the minutes and evidence given before it, reveal much information about the economic and social conditions prevalent, not only in Great Britain, but also in her Colonies.<sup>1</sup>

The Committee was methodical and thorough in its collection of evidence. The investigation can be divided into two parts. In the first place the Committee was anxious to establish the extent of the allegedly redundant population in Great Britain.<sup>2</sup> They were anxious to discover whether certain areas held a greater proportion of the redundant population than others. All sections of the population were interviewed. Peers, Members of Parliament, Overseers of the Poor, parish priests, industrialists, weavers and labourers were all brought before the Committee. The questions asked were not confined merely to establishing the extent of the redundant population. Those interviewed were asked to state their opinions as to the causes of unemployment, the means by which the situation could be remedied, their attitude towards emigration and the willingness of people to contribute towards a scheme of emigration.

The Committee had as its second objective to find out the colonial attitude towards emigration from Great Britain. Here again many different people were interviewed. Recent and established colonists, farmers, businessmen, government

1. H.L.

2. It is clear from the text that the term redundant was used to describe those for whom there was no settled employment. The term "unemployed" began to be used as a noun in the 1880's.

employees and churchmen were among those who gave evidence. Those interviewed from the Cape Colony were R.W. Eaton a businessman from Cape Town; George Thompson a traveller; D.P. Francis, F. Carlisle, Lieut. T.C. White and Thomas Pringle all members of the 1820 Settlement scheme; Henry Ellis a former Deputy Colonial Secretary of the Colony.<sup>1</sup> The Committee wanted to establish whether there was a demand for emigrants in the various colonies. The colonies in which they were particularly interested were Canada, the Cape of Good Hope and New South Wales. Once they had established that there was a demand for emigrants, the questions were directed towards establishing the best means of settling emigrants in the colonies. The Committee was also most interested in trying to establish, whether emigrants would be able to pay back the cost of their establishment in the Colonies.<sup>2</sup>

Among the interesting personalities interviewed was the Rev. T.R. Malthus. Malthus as an economist had enjoyed great influence with the intellectuals of his day since the publication, in 1797, of his 'Essay on the Principle of Population as it effects the Future Improvement of Society.' The evidence he gave showed that his views as expressed in his Essay were unchanged. He stated that the population was increasing too rapidly for the available supply of employment. The result was that wages would be lowered to the absolute minimum. The growth of population would eventually be checked by the amount of food available and a balance established, "but it will be checked at the expense of prodigious quantity of misery".<sup>3</sup>

1. H.L.

2. H.L.

3. H.L. 3rd Report: 29th June 1827, p. 311.

Malthus argued that the introduction of machinery had also contributed towards unemployment and dislocation of labour. A system of emigration, he maintained, would in part remedy the situation.<sup>1</sup>

Malthus focussed attention on what he regarded as the two main causes of economic distress at this time; the growth of population and displacement of labour by machinery. There were, however, other factors which he did not touch upon, one of which, the end of the Napoleonic Wars, was of particular importance in the post-war decade. Even in the twentieth century, the problem of adjusting from a war economy is difficult to resolve. In 1815 after the Revolutionary and Napoleonic Wars, the problem was barely diagnosed, much less resolved. The state lacked both the fiscal and the administrative resources for planning on a nation-wide scale, and the prevailing economic opinions were against any attempt to direct or regulate employment or conditions of work and wages. In the mustering of resources for war, the pace of change in agriculture and industry had been accelerated. Peace brought with it the withdrawal of large government contracts, the dislocation of external markets, and as T.S. Ashton has indicated, demobilisation threw some 300,000 men on the labour market at a time when the demand for labour was contracting.<sup>2</sup>

The measures which were taken, were either harmful or non-effective. The Corn Laws of 1815 were an attempt to revive the protection of agricultural interests, whether those of landlord, farmer or labourer, from the collapse which would follow from unrestricted imports of corn. Since the land tax

1. H.L. 3rd Report: 29th June 1827, p. 311

2. Ashton, T.S. The Industrial Revolution, p. 150.

and the poor rate fell almost entirely on the land owners and farmers, the official policy is intelligible if unwise. After the war the Income Tax and other war taxes were repealed. This meant that the government was forced to rely for revenue on the traditional staples of the Land Tax and Customs and Excises. Hence it was difficult to remove the restrictions on trade which some were already beginning to regard as unnecessary and harmful to the economy. Though there were relatively good and relatively bad years, it seems clear that the pace of recovery, stabilisation and expansion was held back until the Eighteen Forties by the fiscal system.

The effects of war and peace and the industrial change on the standard of living remains debatable ground. The argument revolves around the question whether the standard of living rose or fell. The 'pessimists' headed by Ricardo, Malthus, the Hammonds, the Webbs and latterly by Hobsbawn, maintain that it fell. The 'optimists' led by Macaulay, Clapham, Ashton and currently by Hartwell maintain that it rose. Much of the current argument turns on the sources chosen by the protagonists.<sup>1</sup> Hartwell justly points out that much of the controversy has arisen because the writers argue about different aspects of the topics, without clearly identifying the field of investigation.<sup>2</sup> It does seem possible, however, despite the often impassioned writing, to be able to derive some conclusions. Both schools of thought agree that conditions were harsh in Great Britain. Yet it seems, despite Hobsbawn's arguments, that there was

1. Hartwell, R.M. Economic History Review 1960-1961; 1963-1964.  
Hobsbawn, E.J. Journal of Economic History 1959; Economic History Review 1957-1958; 1963-1964.
2. Hartwell, R.M. Economic History Review 1963-1964, p. 135.

a slow, but faltering, uneven and often localised rise in the standard of living during the period. This, however, as Hartwell points out does not mean that the labouring class lived pleasantly and comfortably.<sup>1</sup> To the contrary there was suffering, discontent and hardship. This is clearly brought out in the letters of application for the scheme to settle people in the Cape of Good Hope.<sup>2</sup>

There has not yet been undertaken any general study of the letters of application to the Colonial Office, as evidence either of opinions about emigration, or of the economic factors which prompted men to emigrate. It is proposed in this chapter to comment on a sample of the letters of application submitted by persons intending to emigrate to the Cape: to try to suggest which trades show the greatest incidence of distress and to re-examine the background from which the 1820 Settlers came. There were more than 90,000 separate applications and the bulk of material ruled out the ideal method of complete statistical analysis. Since the letters moreover were arranged alphabetically and not regionally, an intensive local study was not possible at this juncture. The method followed can best be described therefore as one of random sampling. The sample studied was the letters of application irrespective of area, status or occupation, of surnames beginning with the letters A and M. In addition the letters pertaining to the organisation of the parties raised by James Thomas Brith, Charles Dalgairns and John Henry Dixon, who were neighbours in Albany, were included in the study.<sup>3</sup> In all some two hundred and seventy-five

1. Hartwell, E.M. Economic History Review 1963-1964, p.135

2. C.O. 48/41-46.

3. infra. Chapter III, pp. 1-5.

letters involving more than six hundred individuals were studied.

The selected letters may be divided into three groups. The first group consisted of letters received by the Colonial Office, from the London area. This group was the largest and accounted for fifty-four per cent of the total number of letters received. The second group included letters received from all other parts of England, accounting for almost a quarter (24%) of the letters. The third group consisted of the letters received from Ireland and Scotland - twelve per cent.<sup>1</sup>

The preponderance of letters from the London area, however, should not be over-stressed. The number of letters is certainly significant but it should not be considered in isolation from other factors. Single letters, for example, often included lists of names. A single letter from Edinburgh sent forward by the proposer included a hundred signatures.<sup>2</sup> If a count per capita be made the percentage distribution alters significantly. The London area only accounted for thirty-five per cent, Ireland and Scotland thirty-six per cent and the rest of England nineteen per cent.<sup>3</sup> Another factor to be taken into account is this. The prospective leader of a party often took up temporary domicile in London: hence a London address does not necessarily indicate that the applicant was a Londoner. Again large parties like Bailie's or Wilson's filled up their lists by last minute recruiting from other parties and individuals not accepted by the Colonial Office. Since applicants had to pay a deposit of £10 per head, unemployed persons, or those in receipt of poor relief could

1. Ten per cent of the Letters could not be identified geographically.
2. C.O. 43/44, W. Mylne to Colonial Office. Letter No: 648.
3. infra. Appendix D.I.

make no direct application in their own name. Hence it is only when the legal domicile of each individual has been established that the regional origins of the settlement may be commented upon.

The letters examined, whether from successful or unsuccessful applicants, reveal the many reasons which prompted people to apply to emigrate to the Cape. As has been pointed out, the numbers of unemployed persons, who applied personally was necessarily small; a bare 2%.<sup>1</sup> The majority of those who did apply wrote from London addresses.<sup>2</sup> Their letters clearly show the economic hardships suffered at this time. John Andress, living in Mile End had not been able to find employment for four years.<sup>3</sup> The plight of George Anderson was worse. He had a family of six to support, but had not been able to find employment for two years. He blames this on the depression into which trade had fallen.<sup>4</sup> The letter written by J. Moore was blunt and to the point. "I ham (sic) desirous of going to the Cape being out of the means of subsistence. I ham (sic) a single man of about 22 years of age...."<sup>5</sup> Even those in government employment were not certain of keeping their job, as is seen in the case of H. Moore. He had been employed in His Majesty's Mint, and was at that time out of work.<sup>6</sup> It is not surprising that there should be an application by five hand-loom weavers, all unemployed.<sup>7</sup> Many writers

1. infra. Appendix D, II..

2. ibid.

3. C.O. 48/41: J. Andress to Colonial Office, Letter No: 20.

4. ibid. G. Anderson to Colonial Office, Letter No: 120.

5. C.O. 48/44: J. Moore to Colonial Office, Letter No: 577.

6. ibid. H. Moore to Colonial Office, Letter No: 468.

7. ibid. T.E. Millard to Colonial Office, Letter No: 486.

have shown that of all trades most depressed by the Industrial Revolution, the hand-loom weaving trade was the hardest hit.<sup>1</sup> The letters support the view that despite the settlement laws there was a drift of displaced persons to the towns.

The number of ex-servicemen who applied to emigrate was small; thirty-five out of the total of six hundred and thirty applicants.<sup>2</sup> The reasons which prompted them to apply were firstly that their pensions or half-pay, as the case may have been, were inadequate. Secondly they had been unable to find suitable employment. Nearly a quarter of the ex-servicemen had served at one time in the Cape.<sup>3</sup> There were applications from men such as W. McKay who had not only been present at the taking of the Cape in 1806, but also had served under Colonel Graham on the Eastern Frontier.<sup>4</sup> It appears that these men, with full knowledge of the situation in the Cape were as eager, if not more so, than many other applicants.

The majority of the letters were divided into two groups of occupations; labourers and farmers on the one hand and skilled tradesmen on the other. The farmers and labourers accounted for 28% of the letters of application examined, which was slightly less than the proportion of skilled artisans (31%).<sup>5</sup> In the London area the farmers made up 40% of those who applied. Surprisingly this was a little higher than the percentage of applicants who were skilled artisans (37%).<sup>6</sup> The following could account for this: In the first place, the purpose of the settlement put a premium on agriculturalists. A new emigrant into London, would therefore tend to describe

1. Ashton, T.S. The Industrial Revolution, pp. 75, 116-117.

2. infra. Appendix D. II.

3. ibid.

4. C.O. 48/44: W. McKay to Colonial Office, Letter No: 498.

5. infra. Appendix D. II.

6. ibid. D. III.

himself as labourer, or agriculturalist in the hope it would further his claim for inclusion. In the second place, some party organisers did not recruit their party from Londoners, but from the surrounding counties.<sup>1</sup> James Erith, a baker living in London, is a good example. He recruited his party all of whom were farmers from the Isle of Sheppey.<sup>2</sup> For these and similar reasons, though the farmers and labourers, as a group formed a substantial proportion of those who applied, there were few individual applications from farmers. There were, however, a number of heads of parties who were farmers. Most notable of these was probably Miles Bowker. It is possible to illustrate from his letters to the Colonial Office, the difficulties in which farmers found themselves. Bowker related that by 1819 he found it impossible to provide for his family without "reducing them to the lowest ranks of society."<sup>3</sup> His plight was by no means unique.

The skilled artisans made up 37% of the total number of applications from the London area.<sup>4</sup> Though numerically smaller than the farmers, their letters reveal more information. The largest proportion of this group, 23%, was involved in some way or another with the building trade.<sup>5</sup> Even in the twentieth century the building trade is the first to be affected by an economic down trend. The same was true for this period. Carpenters, bricklayers, painters, builders and architects all applied to emigrate. The position in London was further aggravated by the completion, by 1819, of three great bridges over the Thames.<sup>6</sup> These workmen were now also thrown on to a labour market which was already

1. C.O. 48/44: D. Mills to Colonial Office, Letter No: 598.
2. C.O. 48/43: J.T. Erith to Colonial Office, Letter No: 51.
3. Edwards, p. 55.
4. *infra*. Appendix D. III.
5. *ibid*.
6. Vauxhall Bridge 1816.  
Waterloo Bridge 1817.  
Southwark Bridge 1819.

glutted. Many other trades were also represented in the applications: letters range from dock-workers in the East End to booksellers in the West End of London. They all reveal the same evidence. Conditions were bad and they wished to emigrate to the Cape in order to seek a new and better life. In some cases the wage rates of this period are revealed. J. Atkins, a labourer in the East India Dock was paid 12s. per week.<sup>1</sup> This was a higher wage than many others were earning. Clapham shows that something like 8s. per week was needed for a family of four to subsist at the absolute minimum.<sup>2</sup> The evidence from letters such as that of J. Morris, who was living on 1s. per week, reveals that many were subsisting below the absolute minimum.<sup>3</sup>

The statistics for the rest of England show that 32% of applicants were farmers or labourers, while 35% were skilled artisans.<sup>4</sup> At first glance this would appear surprising. It is explained by the fact that the majority of applications were received not from rural areas, but from ports or manufacturing towns. The party raised by Charles Mouncey, for instance, was drawn from the town of Sheffield.<sup>5</sup> J. Ainsworth raised his party from the town of Blackburn in Lancashire,<sup>6</sup> while W. Morison, a parson, drew his party from the coal town of Sunderland.<sup>7</sup> The letters written by would-be-heads of parties do not give much information, since most letters were written either in order to ask for further information from the Colonial Office, or to send in lists of their party. The letter from William Menzes of Dover was

1. C.O. 48/41: J. Atkins to Colonial Office, Letter No: 51.
2. Clapham, J.H. The Early Railway Age, p. 363.
3. C.O. 48/44: J. Morris to Colonial Office, Letter No: 475.
4. infra. Appendix D. III.
5. C.O. 48/44: C. Mouncey to Colonial Office, Letter Nos: 644; 672; 808.
6. C.O. 48/41: J. Ainsworth to Colonial Office, Letter No: 164.
7. C.O. 48/44: W. Morison to Colonial Office, Letter Nos: 673; 707.

Whom we wish to grant the  
Lumber and other Privileges in making  
with our former defunct business to  
where you are as we have been  
and we are not in the least  
more and more a greater and greater  
Lack of our wisdom to a great  
their good as our faithful  
men to go and have family  
with our  
to give us  
we are not  
and our

William Menzies  
1851

Signature of William Menzies.

an exception.<sup>1</sup> He was a "Scotishman" by birth, consequently he was debarred from obtaining poor relief, since the laws of settlement laid down the principle that poor relief could only be obtained in the parish of one's birth.<sup>2</sup> As a result he chose to emigrate to the Cape, raising a party from the town of Dover.<sup>3</sup> There were other exceptions such as the memorials of W. and J. Wilcombe from Trowbridge, Wiltshire, in which they state that they were unable to find employment.<sup>4</sup>

The same trend is apparent in the letters received from Ireland and Scotland. Over sixty per cent of the letters were written by organisers of parties. Again the proportion of skilled artisans (24%) was higher than the proportion of farmers and labourers (14%).<sup>5</sup> This again is explained by the fact that the parties were organised in towns such as Edinburgh, Glasgow, Cork and Dublin.<sup>6</sup> The party organised by McNeil is interesting in that he lists the occupations of its members. There can be little doubt of the depressed state of the weaving trade in and around Glasgow. Over half of the sixty-eight heads of families or bachelors in the party were weavers.<sup>7</sup> It is unfortunate that in the other large party, organised by W. Mylne from Edinburgh, no list of occupations was given.<sup>8</sup> Mylne, as Secretary of the Forth Shipping Company had originally inquired about the scheme in the hope that his company would be

1. Several spellings of Menzes' name, have been transcribed by Historians. Cory, Edwards, Theal and Hockly spell his name Menezes. Sheffield transcribes it as Menetjes. It is clear though the spelling was Menzes.
2. C.O. 48/44: W. Menzes to Colonial Office, Letter No: 506.
3. *ibid.* Letter Nos: 610; 620; 708; 731.
4. C.O. 48/44: W.J. Wilcombe to Colonial Office, Letter Nos: 595; 596.
5. *infra.* Appendix D. III.
6. C.O. 48/41: Letter Nos: 114; 112.  
48/44: Letter Nos: 482; 541; 593; 774.
7. C.O. 48/44: McNeil to Colonial Office, Letter No: 764.
8. *ibid.* W. Mylne to Colonial Office, Letter No: 648.

My Lord  
Having received your letter  
dated 25 July, in answer to my letter  
sent on 2 June the same and with  
the request to the orders of His Majesty's  
Government, your petition is not  
of them agreeable to the advice of His Majesty's  
Government, and that are found the  
majority in the House of Commons  
and more of them are young men  
and need to be kept at home  
your petition being your petition  
grant the request, and in  
it will be a majority of the  
at your petition. (But as the  
required to be refused (as the  
Whigues had done in the  
In granting the petition  
with much Objection your  
Yours humble servant  
W. Menzes

CO. 1. 8/44  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 08-11-2009 BY 60322 UCBAW

A variation of Menzes' signature.

allowed to transport the emigrants to the Cape. Once he had been informed that there was no possibility of this, he planned to organise his own party. A reflection of the conditions prevalent in this area was the ease with which Mylne was able to obtain a hundred prospective emigrants.<sup>1</sup>

The proportion of those studied for this survey who were ultimately accepted as emigrants by the Colonial Office to emigrate to the Cape, was small (12%). The majority (65%) were from the London area, the remainder being drawn from the rest of England. Backgrounds of these settlers were varied. Half were skilled artisans, while thirty-six per cent were in some way involved in farming. Eight per cent were ex-servicemen, while a mere one per cent could be classified as professional men.<sup>2</sup> The majority of the emigrants were thus ordinary people. The letters of application showed them to be surprisingly literate. Their standard of writing was good, their use of grammar in most cases was correct and their spelling accurate. There were of course, some emigrants who were illiterate, but these were included in parties in which the Head of the party indentured his men.<sup>3</sup> The emigrants whether literate or not, were by and large shrewd and intelligent. Letters written by such men as T.P. Adams,<sup>4</sup> J. Arrowsmith<sup>5</sup> and J. Moorcroft,<sup>6</sup> to name but a few indicate that they did not make their application with their eyes shut. To the contrary the letters show that the emigrants carefully considered the scheme before they applied. This is an aspect which has not always been brought out by historians of the 1820 Settlement.<sup>6</sup>

1. C.O. 48/44: W. Mylne to Colonial Office, Letter No: 648.
2. *infra*. Appendix IV.
3. C.O. 48/43: J. Brith to Colonial Office.
4. C.O. 48/41: T.P. Adams to Colonial Office, Letter Nos: 14; 28; 40.
5. *ibid*. J. Arrowsmith to Colonial Office, Letter No: 65.
6. C.O. 48/44: J. Moorcroft to Colonial Office, Letter No: 533.
7. Hockly, Edwards, Cory.

785  
 on the will of George your Mother Christ of Hamburg  
 I demand from Menzes  
 Dover 12<sup>th</sup> Nov 1829

George	Hamburg	39	2	6	1/2	1/2
La Roche	San Francisco					

11. above power in the name of the  
 26<sup>th</sup> June 1812 from Capt. ...  
 Royal Horse Grenadier, and is named  
 as mentioned at Dover near the  
 Ordnance Board of ...

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1 2 3 4 5 6 7 8 9

CO. O. 48/44

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A further variation of Menzes' signature.

Joseph Arrowsmith in his letter asks eight specific questions relating to the settlement scheme, one of which referred to the supply of gunpowder to the settlers.<sup>1</sup>

James Moorcroft was worried about the relationship between the Head of the party and the grant of land. He wrote asking the Colonial Office "to explain in what situation they stand in after arriving there; It don't appear that they have any land given them; it seems to me all the property of the one person so taken there out (sic), and the said ten families as servants, (or slaves as many say, but I hope not; having too high an opinion of my native country for such an Act) which I hope to find contradicted in the answer your Lordship may favour me with...."<sup>2</sup> There are many other instances of this type of letter. In fact half of the emigrants studied and considered the scheme carefully, and without exception the leaders of the various parties fell into this category.

The fact that <sup>social</sup> there were more skilled artisans than farmers and labourers who applied and were accepted, does not mean that the farming community was in anyway more fortunate than the artisan community. It means rather that the skilled artisans, living in towns or villages were better able to organise themselves into parties, and to raise the £10 deposit, since their wages were usually higher than those of the farm labourers. Finally, the sharp division drawn between artisan and labourer, between town and country, is often more a conceptual framework than a social fact in the early phases of the Industrial Revolution. Apprenticeship laws had been repealed, and men used their aptitudes as best they could. A man might well spend his youth on a farm and move later to London and one

1. C.O. 48/41: J. Arrowsmith to Colonial Office, Letter No: 65.
2. C.O. 48/44: J. Moorcroft to Colonial Office, Letter No: 533.

of its town trades; cottage industries were not yet extinct. Certainly many living in London, described themselves as farm labourers. Despite then the preponderance of applications by artisans, a balanced group was sent to the Cape. This was very largely due to the way in which parties were organised. It is doubtful whether a better cross-section could have been chosen to emigrate, even by careful selection.

The parties organised fell into three broad types.<sup>1</sup> Many of the parties were organised on the basis that each member of the party paid his own deposit money and for convenience a leader was appointed to correspond with the Colonial Office.<sup>2</sup> Invariably these parties were raised in a town or village. The members of the party, it would seem, appreciated the need for farmers, since in no one party was there a complete absence of farmers. The party proposed by George Marsden is a good example. Although the party was drawn from the same area in the East End of London, yet four farmers were included in the party.<sup>3</sup> There were necessarily many changes in the composition of the party. Indeed it was usual for the party to change its composition several times before the party was finalised. The background of the members of these parties in nearly all cases was of hardship and struggle. The trades which they practised were those of the village and not of the industrial town.

The same pattern is also evident in the composition of the second type of party: those organised by one person. The organiser formed his party and paid the deposit money; in

1. vide. Edwards, page 57 for a different approach to the problem of classification.

2. C.O. 48/42: Dixon's Party.

3. C.O. 48/44: G. Marsden to Colonial Office, Letter Nos: 539; 547.

return the emigrants were indentured to the organiser for a period of years. The parties organised by Waite and Mills are typical examples.<sup>1</sup> Both parties were organised by landowners who recruited their party from rural areas. Unfortunately due to the nature of the party, very little of their background, apart from the Head of the Party, is revealed. Generalisations must be made with caution at this stage. It seems clear, however, that on the one hand the Head of the Party entered the scheme in the expectations that his investment would reap a rich reward at the Cape. On the other hand the indentured servants saw in the scheme a means by which they could escape the harsh conditions in England and eventually achieve a better life in the Cape of Good Hope.

The manner in which the third type of party was organised is interesting. At this time Poor Relief was handled by each individual parish, but due to the economic distress, the numbers applying for poor relief had reached disastrous proportions. The parishes were unable to deal adequately with the situation. A solution to the problem was sought by some parishes and county authorities in emigration.<sup>2</sup> By emigration it was hoped that the redundant population would be reduced and with it the cost of poor relief. The most striking and best documented example is that of the Nottingham Party. Leicester would have done the same but for the slackness of the Town Clerk. The Nottinghamshire Committee, consisting of the Dukes of Newcastle and Portland, Earl Manvers, the Clerk of the Peace, Godfrey and the Reverend Becher planned to raise a party to be sent to the

1. Goldswain, J. The Chronicle of Jeremiah Goldswain, p. 1-18.

C.O. 48/44: D. Mills to Colonial Office, Letter No: 598.

2. Notts. p. 41.

Cape.<sup>1</sup> Under the Chairmanship of the Duke of Newcastle the Committee launched a fund.<sup>2</sup> The Committee scrutinised the letters of application and selected sixty males.<sup>3</sup> 'Articles of Agreement were drawn up between the Rev. John Thomas Becher and Edward Smith Godfrey on behalf of themselves and of His Grace the Duke of Newcastle "and several other Noblemen and Gentlemen Subscribers to the Fund for relief of Persons resident in the Said County by Colonization to the Cape of Good Hope" of the first part, Thomas Calton of the second part and "the several other Persons whose names are hereunder written", the settlers of the third part.'<sup>4</sup> In all a hundred and fifty persons were sent to the Cape by the Nottinghamshire Committee.

The organisation of the parties reveals two other very important facts. In the first place the working of the Colonial Office can be studied at first hand. The study supports the assertions of Young and Beaglehole and the conclusions of Chapter One, that the Office under Lord Bathurst was efficient. There is almost a total absence of any person complaining that his letter had not been attended to - on the contrary, replies were sent out surprisingly swiftly. Letters were replied to within a period of four or five days.<sup>5</sup> Considering the vast volume of letters handled by the Office this was no small achievement. It indicates a highly organised and efficient department. Neither is there any evidence to suggest that the Office was in any way biased in favour of the moneyed or upper classes. That the application of Rev. J. Ashe, D.D., supported by no less than three Bishops and two Peers, was nevertheless

1. Notts, p. 41.

2. ibid.

3. ibid.

4. ibid.

5. e.g. C.O. 48/43: J.T. Brith to Colonial Office, Letter No: 9.  
C.O. 48/44: W. Mansell to Colonial Office, Letter No: 529.

rejected, bears out this point.<sup>1</sup> There are also other such examples which disprove any theory of the Colonial Office being invariably biased in favour of the moneyed or upper classes.<sup>2</sup>

In the second place, the study reveals how the scheme was publicised. Many applicants read about the scheme in the 'Public Papers'. This was as true for the Home Counties as for the counties farther from the centre of government. This indicates that at this time the newspapers were read by a relatively large number of people. The other method by which the scheme became widely known was by word of mouth in the Public Houses. There are many references to such Public Houses as the 'Running Horse' and the 'Red Lion'.<sup>3</sup>

It is apparent that the local tavern was the meeting place of the ordinary people. Many taverns set aside rooms where meetings could be held. The tavern played a large part in the social life of the people. It was here that events, great and small, were discussed and it was here that many settler parties were originally organised.<sup>4</sup>

When the 1820 Settlement is compared with the plans of Gibbon Wakefield in New Zealand and the ~~Burn~~ settlement in Natal, its organisation appears at first sight to be haphazard. Closer examination has suggested that the design in 1820 had two merits. In the first place the Colonial Office, itself in process of reform, acted with promptitude, and its provision of naval transports was in every way admirable. The

1. C.O. 48/41: Rev. J. Ashe to Colonial Office, Letter No: 31.
2. e.g. C.O. 48/41: J.P. Angier to Colonial Office, Letter No: 104.
3. C.O. 48/41: J. Ames to Colonial Office, Letter No: 170.  
Goldswain, J. The Chronicle of Jeremiah Goldswain, p.1.
4. ibid.  
C.O. 48/41: T. Beale to Colonial Office, Letter Nos: 176; 178; 180; 182-3.

Colonial Office showed likewise remarkable patience and common sense with the last minute changes that had to be made. In the second place, much was left to the initiative of individuals and it is well to remember that in the year of Peterloo and the 'Six Acts' there was certainly no close screening or mass mustering of emigrant parties. Whether one considers the Nottingham party, the Salem party, or the parties raised by Mouncey in Sheffield or with the baker in London, there is no evidence to suggest a headlong panic to emigrate.

Wakefield and the radical reformers were to lay great stress on the planning of social groups. In fact the enterprise and common sense of those who planned their own parties effected a balanced pattern of emigration. The Colonial Office for its part, even if more by accident than design, did in fact tranship a fair cross-section of English society at the time. Above all, the favourable financial arrangements for family groups resulted in the family being the migratory unit. The fact that the number of children was greater than the number of adults helps to explain the tenacity of the 1820 Settlement.

CHAPTER III.

JAMES BRITH AND HIS LOCATION

In the previous chapter, the attempt was made to throw new light on the origin and structure of the 1820 Settlement by examining a section of the letters of application. These letters remain the best index to the motives for emigration, the procedures by which parties were mustered, and the patterns of organisation. The general characteristics of the settlement are illustrated in closer detail by the history of James Erith and his party, with whom may be compared his near neighbours in Albany, John Henry Dixon<sup>1</sup> and Charles Dalgairns.<sup>2</sup> The three parties are comparable in size, and it was in no small measure due to the conflict with John Dixon, that Erith was displaced from his original location and began his saga of complaint.

The organisation of Charles Dalgairns' party was similar to that of Erith. Dalgairns was a farmer, but at the time of applying was domiciled at 1 New Court, Bow Lane, Cheapside in the East End of London.<sup>3</sup> He was no mere pauper farmer, and could quote numerous references, including that of W. Laing of the City of London.<sup>4</sup> This indicates that Dalgairns was relatively well-to-do. His letters are well written, short and to the point. The social class to which Dalgairns belonged was again brought out clearly once he settled on the Eastern Frontier. He was friendly with, and was visited frequently by Thomas Philipps and his family and Captain Campbell.<sup>5</sup> Philipps and Campbell were part of what could be termed the 'rising gentry' of the Frontier settlement. It is improbable that they would have associated with Dalgairns had he not been of the same social standing. Dalgairns in any event had no trouble in raising a party. His first letter was dated the

1. C.O. 48/42.

2. ibid.

3. C.O. 48/42: C. Dalgairns to Colonial Office, Letter No: 725.

4. ibid. letter No: 751.

5. Keppel-Jones, A. Philipps, 1820 Settler.

25th August 1819.<sup>1</sup> By 6th September he had raised a party of ten heads of families, the majority being bachelors.<sup>2</sup> The composition was altered before the party finally set sail. It comprised eight heads of families who were agriculturalists, two carpenters and one smith.<sup>3</sup> The party was in many ways similar to Brith's. It was small, the party was indentured and the selected members made a unit adapted to the prospective needs of a small farm.

The party was placed on the left bank of the Blaauw Krantz River.<sup>4</sup> The Dalgairns family/<sup>soon</sup> established a friendly relationship with the Philipp's family. Many instances are recorded of their visiting each other, picnic parties and celebrating Christmas together.<sup>5</sup> By December 1822 however, Dalgairns was contemplating emigrating to van Dieman's Land.<sup>6</sup> The plan did not materialise, but on March 4th 1823 Dalgairns left his location, due to his failure of farming the land. He moved to Somerset and went into partnership with Lt. Robert Hart.<sup>7</sup> Dalgairns was not the first of his party to leave the location. In August 1822, William Williams was able to find employment with the Commissariat Department, in Grahamstown.<sup>8</sup> Dalgairns' departure heralded the departure of the other members of the party, among them Stephen Denham and Simon Haw taking up residence in Grahamstown.<sup>9</sup> By the middle of 1823 the party had split up, each man going where he could best find employment.

The party organised by John Henry Dixon was dissimilar to those of Brith and Dalgairns.<sup>10</sup> There is no evidence to suggest that any of his party were indentured to him. On the

1. C.O. 48/42: C. Dalgairns to Colonial Office, Letter No: 752.
2. ibid.
3. Records, Vol. 12, p. 428.
4. L.A.C. Vol. I, p. 19.
5. Keppel-Jones, A. Philipps, 1820 Settler.  
L.A.C. Vol. I, p. 40.
6. L.A.C. Vol. I, p. 50.
7. ibid. p. 52.
8. ibid. p. 47.
9. ibid. p. 53.
10. C.O. 48/42: J.H. Dixon to Colonial Office, Letter Nos:  
529, 547.

contrary, the evidence, such as there is, points in the opposite direction. The composition, in the main, of married men with children is an indication that each man paid his own deposit.<sup>1</sup> Moreover, one of the party, George Marsden had tried to form a party of his own.<sup>2</sup> This plan fell through so that he, and one of his party, Joseph Daniells joined Dixon's party. Finally the party was drawn from the same area, around Mile End Road in the East End of London. In addition they were drawn from the same class of occupations.<sup>3</sup>

The party was a small one of eleven heads of families. As commonly happened, the composition of the party as initially proposed was radically altered before the party left England.<sup>4</sup> The occupation structure of the party was different from that of Erith's party, and followed more closely the typical London pattern.<sup>5</sup> In the original party, six of the eleven heads of families were engaged in the building trade.<sup>6</sup> In the final party, five were skilled artisans and only one, a gardener, was in any way connected with agriculture.<sup>7</sup>

John Dixon and his party were placed on their location, Waai Fleats, on July 24th 1820.<sup>8</sup> This location was divided between themselves and Edward Damant's party. Damant and his party, however, soon left and James Erith was placed on his part of the location.<sup>9</sup> Unlike Dalgairns, Dixon remained on his location for some years. The members of his party however, left the location at regular intervals. John Vice was the first to leave, in April 1822.<sup>10</sup> Some left the location in order to pursue their former trades. James Vice set up business as a

1. sup. Chapter II.
2. C.O. 48/42: G. Marsden to Colonial Office, Letter Nos: 529, 547.
3. C.O. 48/42: J. Dixon to Colonial Office, Letter No: 759.
4. ibid.  
Records, Vol. 12, p. 432.
5. sup. Chapter II.
6. C.O. 48/42: J. Dixon to Colonial Office, Letter No. 759.
7. Records, Vol. 12, p. 432.
8. L.A.C. Vol. I, p. 20
9. Records, Vol. 14, p. 236.
10. L.A.C. Vol. I, p. 44.

butcher,<sup>1</sup> while James Carney returned to the saddlery trade.<sup>2</sup> By the end of 1827, the greater part of the party had deserted the location. Dixon himself finally left the location at the beginning of 1829, when he took up the position as Clerk to the Chaplain of Grahamstown.<sup>3</sup>

Unlike the parties of Dalgairns and Dixon, some doubt exists as to the area from which Erith's party came. Accounts of the 1820 Settlers state that Erith's party was from Surrey.<sup>4</sup> This is not the case. Erith himself, was a Freeholder of the County of Kent, owning property in or around the town of Rochester.<sup>5</sup> This is deduced from the fact that he cites as referees, G. Thomas, an Ironmonger at Strood, near Rochester; Robert Fowler, a farmer from Rochester and Sir Edward Knatchbull, one of the Members for Parliament for the County of Kent.<sup>6</sup> The members of his party were drawn from the Isle of Sheppey, which is part of Kent.<sup>7</sup> The confusion as to the origin of Erith's party arose because Erith, at the time he sent in his letters of application, was living at Peckham, then in the County of Surrey.<sup>8</sup> Erith's party was organised in a similar way to that of Dalgairns. Erith as proprietor of the party, undertook to pay the deposit money for those who wished to join his party. In return the members of the party bound themselves by contract to work for Erith for a period of three years.<sup>9</sup>

Originally Erith had been included in a party proposed by Thomas Beale.<sup>10</sup> Three weeks later, Erith wrote to the Colonial Office inquiring about the possibilities of his raising a party of his own, as well as about conditions at the Cape.<sup>11</sup>

1. Sprigg, Grahamstown Journal, Index. 27/8/1853, p.4.
2. B.A.C. Vol.2, p. 60.
3. *ibid.* p. 35.
4. i. *Records*, Vol. 12, p. 430.  
ii. *Hookly*, p. 271.
5. C.O. 48/43: J. Erith to Colonial Office, Letter No: 5.
6. *ibid.*
7. *ibid.* Letter No: 51.
8. *ibid.*
9. C.O. 48/148: p. 158.
10. C.O. 48/41: T. Beale to Colonial Office, Letter No: 182.
11. C.O. 48/43: J. Erith to Colonial Office, Letter No: 3.

It was while Beale was away in Shropshire that Erith tried to induce the members of Beale's party to join his own party. Although Erith was unsuccessful, Beale's party was broken up and he was forced to abandon his own scheme.<sup>1</sup>

Erith then proposed his own party. Despite an unfavourable reply from the Colonial Office, who did not want to accept his proposal,<sup>2</sup> Erith went ahead and on August 16th 1819 he sent in his list of settlers, and was in due course accepted.<sup>3</sup>

There has been some doubt as to the precise composition of Erith's party. Theal, Sheffield following Campbell, and Cory have all compiled different lists of settlers, and all three disagree as to the composition of Erith's party.<sup>4</sup> Theal based his list of settlers on the sailing lists - which are preserved in the Public Record Office. Sheffield on the other hand worked from the disembarkation lists - which are preserved in the Cape Archives. Neither list is completely accurate. Sheffield's list is usually precise, but unfortunately some ships did not send in their disembarkation lists.<sup>5</sup> Sir George Cory tried to make a complete list. Unfortunately his list, as well as the later list of Hockley, includes all names that appear in the London and Cape Town lists.<sup>6</sup> This, as well as the fact that the manuscripts are difficult to decipher and spelling often inconsistent, has led to some confusion. An example is the inclusion by Hockley and Cory of both Filmer and Tilmer, who, however, are one and the same person, merely transcribed differently by Theal, Sheffield and Campbell.<sup>7</sup>

1. C.O. 48/41: T. Beale to Colonial Office, Letter No: 184.

2. C.O. 48/43: J. Erith to Colonial Office, Letter No: 5.

3. *Ibid.* Letter No: 51.

4. *Records*, Vol. 12, p. 490.

Sheffield, T. *The Story of the Settlement*, p. 301.

Cory, G.E. *Alphabetical List of the British Settlers*, 1820.

Campbell, C.T. *British South Africa*.

5. Cory, G.E. *Alphabetical List of the British Settlers*, 1820, p. 1.

6. *Ibid.*

7. *Records*, Vol. 12, p. 479.

Sheffield, T. *The Story of the Settlement*, p. 302.

Campbell, C.T. *British South Africa*, p. 169.

In the case of Erith's party the Cory and Hockley list includes seventeen heads of families. This cannot be correct since this would have required Erith to pay a deposit of at least £170, whereas he in fact only paid £105 in deposit.<sup>1</sup> The list given by Sheffield is correct. On January 3rd 1820 just prior to his sailing, Erith sent to the Colonial Office a revised list of his party.<sup>2</sup> This list is identical to the disembarkation list as given by Sheffield. In addition all ten in the party have been definitely identified as having settled in the Albany district.<sup>3</sup> In Theal's list on the other hand only three people, all of whom are common to both lists, can be identified. There can then be now no doubt of the composition of Erith's party.<sup>4</sup>

Erith was a baker by profession. He lived in London but owned property near Rochester.<sup>5</sup> It appears that he was relatively well off since he was able to raise £105 without much difficulty.<sup>6</sup> A misunderstanding between Erith and the Colonial Office arose over his intentions. The Colonial Office, it seems, thought that Erith wished to emigrate to British North America. Erith in his letter dated 16th May 1819 set the record straight. "I have the honour to receive your letter of the 15th Instant acquainting me that His Majesty's Government no longer gives encouragement to Persons proceeding as Settlers to North America and I beg leave humbly to represent to you that my letter of the 10th Instant written in behalf of myself and nine others expressed our willingness to settle not<sup>7</sup> in the British possessions in North America but at the Cape of Good Hope."<sup>8</sup>

1. Cory, Vol. II, p. 36.  
Records, Vol. 12, p. 490.
2. C.O. 48/52: J. Erith to Colonial Office, p. 297.
3. L.A.C.  
Sprigg, Grahamstown Journal Index.
4. infra. Appendix E.
5. C.O. 48/43: J. Erith to Colonial Office, Letter No: 5.
6. ibid.
7. Author's under-lining.
8. C.O. 48/43: J. Erith to Colonial Office, Letter No: 9.

Erith's motives for emigrating to the Cape of Good Hope were two-fold. In the first place Erith genuinely desired to emigrate. This is seen not only in his letters of application in which he writes, "I am with several of my friends desirous of settling there",<sup>1</sup> but also significantly in the fact that he originally intended to emigrate with Thomas Beale's party.<sup>2</sup> In the second place, there can be little doubt that Erith saw in the scheme an opportunity of making money. By paying the deposit money for the members of his party and indenturing them, he hoped that he would not only recover his initial outlay of £105 but also make a substantial profit.<sup>3</sup> It was with this idea in mind that he eventually raised a party of nine farmers from the Isle of Sheppey. This was not easy, for example seven of his initial party were bound by existing yearly contracts.<sup>4</sup> He replaced them with six farmers and a carpenter. Erith gives no indication of how he selected suitable people for his party. It seems apparent, however, that he preferred bachelors and farmers.<sup>5</sup> This was natural since, by nature of the scheme, more deposit money had to be paid for families.<sup>6</sup> In addition since he himself was not a farmer, he needed the members of his party to be farmers, so that his location at the Cape could be cultivated.

Erith's letters reveal several other important facts. Erith as a freeholder of the County of Kent was entitled to a vote. It is clear that at this time a vote was considered rather like a piece of property, useful in barter. A voter considered that he had a right to get something in return

1. C.O. 48/43: J. Erith to Colonial Office, Letter No: 3.
2. C.O. 48/41: T. Beale to Colonial Office.
3. *sup.* Chapter II, p. 34.
4. C.O. 48/52: J. Erith to Colonial Office, p. 297.
5. C.O. 48/43: J. Erith to Colonial Office, Letter No: 51.  
C.O. 48/52: *ibid.*, p. 297.
6. Theal, G.M. History of South Africa, Vol. 1. p. 349.

for giving his vote. It was for this reason that Erith in his letter writes "If my reference is further required.. I am ... known to Sir E. Knatchbull for whom I voted at the last election."<sup>1</sup> Erith was also a man of some education. His handwriting was neat, his language concise and his spelling accurate. The letters reveal that trait of persistence in Erith's character, which in later years was to stand him in good stead, since despite a discouraging letter from the Colonial Office,<sup>2</sup> Erith was not deterred. His letters show him then to be a man of small but comfortable means, educated, shrewd and tenacious.

Erith, his wife, two daughters and nine indentured servants set sail from England in the Royal Navy's transport ship 'Brilliant'.<sup>3</sup> Erith, like other leaders of indentured parties, who had invested a great deal of capital in the scheme, naturally hoped to reap dividends. The indentured servants had other ideas and saw in the scheme an opportunity to escape from England and to start a new life. A situation developed then, in which the servants desired ultimately to break their contracts while the heads of parties wished to enforce them. Formal contract between Erith and seven of his servants had been drawn up on the 8th January 1820, just prior to their departure.<sup>4</sup> It stated that the servants were to work for Erith for three years, at the end of which they would be paid their wages on the scale laid down. There was a proviso that Erith would advance them "small sums of money on account of their wages when they may want it for good purposes".<sup>5</sup>

Friction within Erith's party developed soon after the 'Brilliant' sailed. According to Erith's memorial of 31st December 1821, he maintained that his servants had "behaved

1. C.O. 48/43: J. Erith to Colonial Office, Letter No: 5.
2. ibid. Minute by Lord Bathurst.
3. Sheffield, T. The Story of the Settlement, p. 301.
4. C.O. 48/148: p 158.
5. ibid.

in a manner unbecoming their situation and which could not fail to excite in his mind some painful sensations, but which he hoped would be effectually removed by the local Authorities".<sup>1</sup>

The 'Brilliant' arrived in Simon's Bay on 30th April 1820,<sup>2</sup> and after revictualling she reached Algoa Bay on the 19th May.<sup>3</sup> Four days after disembarking Erith's party and several other parties set off by ox-wagon for their locations in Albany.<sup>4</sup> On this journey the friction within the party was aggravated further. Erith was unable to fulfill the obligation of paying his men "small sums of money" since money was scarce on the frontier. For his part Erith complained that the conduct of his party "became very turbulent inasmuch as during their journey... to his location they threw out the property of your memorialist from the waggons... and when he insisted on their being replaced, one of them struck him a violent blow and put himself in the attitude of a pugilist, but which your memorialist endeavoured to bear with as much patience as possible, thinking that when he arrived within the precincts of a Drostdy he should meet with the same protection and redress as if he had been on the favoured shores of England."<sup>5</sup>

On June 9th Erith's party outspanned at Reed River Post.<sup>6</sup> Soon afterwards they were settled on location thirty.<sup>7</sup> This favourably sited land, indicated on a sketch-map by the Government Surveyor John Knobel, was bordered on three sides by streams.<sup>8</sup> It was situated south of location six which was

1. C.O. 48/148: p. 147 ff. Memorial to Lord Charles Somerset. Records, Vol. 14, p. 233.
2. Sheffield, T. 'The Story of the Settlement', p. 99.
3. Records, Vol. 21, p. 134.
4. ibid.
5. ibid. Vol. 14, p. 234.
6. L.A.C. Vol. I, p. 18.
7. Records, Vol. 13, p. 160.
8. C.O. 48/148: p. 311.

set aside for Thomas Philipps, north of the area set aside for the town of Bathurst and west of location twenty-nine which was allotted to George Dyason.<sup>1</sup>

On arrival at his location Erith presented his case re: the friction between himself and his servants, to the Provisional Magistrate at Bathurst, Captain Trappes. According to Erith, Trappes failed to investigate and therefore settle the matter. Indeed Erith asserts and Captain Trappes, in a memorial written in defence of his actions does not challenge,<sup>2</sup> that he was informed by Trappes that "If he [Trappes] could not send him [Erith] out of the colony he would place him in a situation which would be quite as bad or worse".<sup>3</sup> This was an extraordinary statement for an official to make and there can be little doubt that it formed the basis of the enmity which sprang up between Erith and Captain Trappes.

Further trouble developed once the party had been placed on its location. The servants demanded higher wages than had been stipulated in their contract and refused to work for Erith, until he complied with their demand.<sup>4</sup> Erith on the other hand, refused to comply and in addition refused to supply them with food and other necessities, unless they worked for him.<sup>5</sup> Captain Trappes visited the party on two occasions to try and effect a compromise. His efforts met with failure. Soon afterwards according to Trappes "Nearly the whole of the party came to Bathurst in the most clamorous manner, declaring the impossibility of their remaining with Mr. Erith".<sup>6</sup> Moreover, according to Trappes' memorial, the

1. i. infra. Appendix F.  
ii. Records, Vol. 13, p. 160.
2. Records, Vol. 14, pp. 270-274.
3. ibid. p. 234.
4. ibid. p. 233.
5. ibid. p. 234.
6. ibid. p. 271.

dispute, recorded by William Hiles, the clerk, was heard by him in the presence of Brith.<sup>1</sup> Unfortunately no official records of cases exist for this period, thus it is impossible to check directly the authenticity of this statement. It would appear, however, to be true since Brith, who refutes many other assertions made by Trappes in this particular memorial, does not deny the hearing of this case.

Captain Trappes discussed the issue with the Landdrost, Lt. Col. Cuyler and together they decided to send the case, as recorded by Hiles, to the Acting-Governor Sir Rufane Donkin,<sup>2</sup> with a covering letter recommending the dissolution of the party. While the decision of the Governor was being awaited the members of the party either settled down, and worked for Brith, or broke their contracts and tried to find employment elsewhere. Three servants, Whittle, Kemp and one other went to Bathurst to seek employment, while the other four indentured servants, as well as Robertson and Dry remained with Brith.

According to Captain Trappes, "during the interval that elapsed between sending my report and receiving His Excellency's commands some<sup>3</sup> of the party came to me to request I would give them in the interim some employ to enable them to procure shoes of which they were quite destitute. Accordingly I judged proper to put them to government work".<sup>4</sup> From this one is led to believe that each would merely be paid a subsistence wage. This, however, is not true. J. Mandy,<sup>5</sup> the contractor in charge of building the Drostdy House, testified that Whittle was paid 4sh. per day and Kemp 3sh.6d. per day.<sup>6</sup>

1. Records, Vol. 14, p. 271.
2. Sir Rufane Donkin, Acting-Governor of the Cape. Jan. 13, 1820-Nov. 31, 1821.
3. Author's under-lining.
4. Records, Vol. 14, p. 271.
5. J. Mandy an 1820 Settler. Head of Mandy's Party from Surrey.
6. Records, Vol. 32, p. 218.

These rates were in excess of the normal rates (between 2sh. 6d. and 3sh. per day) paid at that time.<sup>1</sup> The conclusion must be drawn that Trappes, wishing to obtain their services, offered them high wages, the real value of which was increased by grant of rations. The food Trappes compelled Erith to provide and pay for. This amazing arrangement Erith vigorously opposed. Trappes' reason for his action was that he "had no other means of providing them with provisions".<sup>2</sup> This is not at all plausible, since Trappes, as the chief government official in Albany, directed and controlled the issue of rations. His justification was ~~not~~ specious. It would seem that basically he wished to attract labour in order to build the Drostdy House, which when completed would then be for his own use.

Trappes' argument then that the three servants deserted Erith solely because they were dissatisfied with him must be examined, since two statements in Trappes' memorial have been shown to be highly doubtful, if not untrue. The fact that four of Erith's indentured servants remained with him and were satisfied,<sup>3</sup> would seem to suggest that Erith was not a complete scoundrel. There were probably other reasons, besides dissatisfaction which led the three men to leave Erith. The reason is not hard to find. They were simply attracted to work for the government by the high wages, which Erith would not, and probably could not afford to pay. Understandably they found it difficult for them to decline Captain Trappes' enticing terms of employment.

Erith was fully convinced and he had good reason to be, that Captain Trappes was prejudiced against him. This con-

1. Cory, Vol. II, p. 6.

2. Records, Vol. 14, p. 271.

3. ibid. Vol. 32, p. 216.

viction was strengthened when on July 1st he received a letter from Captain Trappes stating that "he had received an order, from Lt. Col. Culyer to remove him to Waaye Plaats and that transports for that purpose would be ready in a few days".<sup>1</sup> The reasons which lay behind this order are not easy to expose. Erith was convinced that this was a move on the part of Captain Trappes to carry out his earlier threat.<sup>2</sup> Captain Trappes maintained that he was carrying out orders given to him by Lt. Col. Culyer. The facts were that Erith was to be moved to Edward Damant's location, while Wilson's party was to absorb Erith's old location - number thirty.<sup>3</sup> The reason given by Knobel for this change was that Mr. Wilson's location was too small and needed an additional grant of land.<sup>4</sup> These orders were not, however, carried out exactly as Lt. Col. Culyer laid down. Certainly the first command was obeyed and Erith was placed on Damant's location, Waai Plaats. Wilson's party did not, however, absorb all Erith's location. This was due to a reshuffling of the locations in this area, just north-east of the proclaimed township of Bathurst. In the same batch of instructions Lt. Col. Culyer ordered that "Mr. Calton to be located on No. 32..."<sup>5</sup> This was not carried out. In fact Calton's party's location straddled part of location thirty-two and part of location twenty-nine, which was the location of George Dyason. Dyason was then given part of Erith's location and some land north of the Brak river and south of river A.<sup>6</sup>

No records which explain the reshuffling of these locations have been found. Erith, however, was not at a loss to

1. Records, Vol. 14, p. 236.
2. sup. p. 47.
3. Records, Vol. 13, p. 170.
4. ibid. p. 162.
5. ibid. p. 171.
6. infra. Map. Appendix F.

explain the redistribution of land. His argument was that "Captain Trappes having obtained an extensive grant of land at the Eastern Extremity sets up his bound marks within the limits of their (Calton's party) and thereby forces them to occupy" the adjoining location (Dyason's) to make up the deficiency.<sup>1</sup> In turn Dyason is forced to occupy part of Erith's location, thus depriving Wilson of his promised part and evicting Erith entirely.<sup>2</sup> Erith made other wild accusations, stating that Trappes had "placed one of the Nottingham Subscription party thereon, whom he had employed as his gardener."<sup>3</sup> In his defence Trappes refuted this statement, but does not answer the accusations made by Erith, regarding his own grant of land and its effect on the neighbouring locations.<sup>4</sup>

Several factors support Erith's statement. Firstly the source of a tributary to the Kleine Mond River is situated in Location 32, and thus it was a desirable piece of land. Secondly it was the custom of Knobel, the surveyor, to use rivers as boundaries for locations wherever possible. When he first drew the map for this area this was the case, with rivers marking the boundaries between locations 29, 30 and 32.<sup>5</sup> The changes brought about with the insertion of Trappes' land disrupted the boundaries so that they no longer corresponded with the rivers.<sup>6</sup> Thirdly Trappes, having moved Calton's party laid claim to the land in which the source of the Kleine Mond's tributary was situated. The reason given by Knobel can be doubted as well. Since there was much vacant land to the south-west of Wilson's location it would have caused no disruption at all had some of this land been given to him.<sup>7</sup> Moreover, Damant's location actually bordered on

1. Records, Vol. 14, p. 236.
2. infra. Map. Appendix F.
3. Records, Vol. 14, p. 236.
4. ibid. p. 272.
5. infra. Map. Appendix F.
6. ibid.
7. ibid.



Wilson's location, and it could easily have been absorbed by Wilson. This change would also have been simpler to implement and would have caused no disruption.<sup>1</sup> Further doubt is thrown on Knobel's integrity by the following letter. "Sir - The Bearer Dirk Niemand has instructions to furnish you with three waggons and to conduct you to your proper location, the ground on which you have been put by mistake falling within the limits of the Township of Bathurst. signed G. Knobel for Lt. Col. Cuyler."<sup>2</sup> This statement is not correct. It is clearly evident in the maps that location thirty was beyond the lands set aside for the Township of Bathurst.<sup>3</sup>

Truculent though Erith seems to have been it is difficult not to sympathise with him. Knobel was over-worked and consequently genuine mistakes, in locating settlers, were made. The reasons, however, given by him, as well as those given by Captain Trappes cannot be accepted as valid. Whatever the unexplained motives of Captain Trappes two things are clear. In the first place disruption was caused initially by the grant of land to Captain Trappes on the eastern side of Bathurst. In the second place the solution adopted was not the only solution nor even the best one.

James Erith was resolved not to be moved off his land without a determined struggle. On July 1st 1820, he received the first letter informing him of his removal.<sup>4</sup> Erith took little notice of this order. On July 18th 1820, he received a further order from Knobel, acting for Lt. Col. Cuyler, which he did not obey because he "was confined to his bed by severe Indisposition."<sup>5</sup> At the same time he

1. infra. Map. Appendix F.
2. Records, Vol. 14, p. 237.
3. infra. Map. Appendix F.
4. Records, Vol. 14, p. 236.
5. ibid. p. 237.

sent his wife to the Landdrost, Lt. Col. Cuyler, to plead on his behalf to remain on his present location.<sup>1</sup> Captain Trappes disputes the fact that Erith was ill, since he "had resisted the removal of his effects by cocking and presenting a loaded gun, swearing he would shoot the man that should presume to touch them."<sup>2</sup> Trappes also points out that Erith had not called in Dr. O'Flynn who attended settlers free of charge. Erith for his part, in his defence, produced two independent witnesses who testified that he was "very ill" at this time.<sup>3</sup> Erith was finally removed on or about the 27th July, when a warrant for his removal had been issued.<sup>4</sup> It is significant that Erith did not resist this order. As will become increasingly apparent, Erith a typical Kentish Freeholder was a stickler for his rights as laid down by the law. He was careful not to overstep the bound of legality. By the end of July 1820, he was finally placed on his new location, Waai Plaats, which he described as a "Desert ... which... exhibited the most appalling prospects by the immense masses of stones which were almost everywhere to be seen."<sup>5</sup>

Erith's 'Time of Troubles' was however not at an end. The month of July 1820 must have been viewed by him as one of unmitigated disaster. Not only was he forced to move his location but also his party was arbitrarily dissolved by Captain Trappes. On July 6th Captain Trappes received the following letter from the Acting-Governor Sir Rufane Donkin.

1. Records, Vol. 14, p. 237.
2. ibid. p. 273.
3. ibid. Vol. 32, p. 218.
4. ibid. Vol. 14, p. 273.
5. ibid. p. 237.

"I am directed by His Excellency the Acting-Governor to acknowledge the receipt of your letter ... with its several Inclosures and to convey to you his Excellency's approbation of your suggestion respecting the dissolution of the party which left England under the charge of Mr. Erith, provided that the same be effected with the several Consent of those concerned."<sup>1</sup> Captain Trappes without consulting Erith dissolved the party.<sup>2</sup> Erith in his memorial to the Governor assures him "in the most positive and unequivocal Terms", that he "did not consent to the dissolution of his party."<sup>3</sup> Trappes' action then was wrong. It was also wrong according to the Proclamation issued by the Governor on 14th May 1820 and the letter of May 23rd, 1820 of the Deputy Colonial Secretary. In both these documents instructions were given regulating the way in which the settler parties were to be handled. The Governor in the Proclamation stipulated that "Settlers ... under Articles of Agreement to Heads of Parties ... desiring to establish themselves" independently must make an application stating that the "Head of the Party ... absolves the Settlers from their Agreements."<sup>4</sup> The instruction in the Deputy Colonial Secretary's letter stated that "The Colonial Law will compel the performance of the reciprocal duties of Master and Apprentice; and a reference to the particular agreement will enable you to decide on whatever case this nature may be brought before you."<sup>5</sup>

Captain Trappes explains his action by the fact that "Erith had no legal claim to the services of the People of his party after he landed in this colony, as he acknowledged that the engagements subsisting betwen them had been dissolved

1. Author's under-lining.  
Records, Vol. 14, p. 238.
2. ibid. p. 274.
3. ibid. p. 238.
4. ibid. Vol. 13, pp. 125-127.
5. ibid. pp. 144-146.

by mutual consent on Board the Transport... Mr. Erith moreover showed me the agreements which he had entered into with Thomas Dry with the seals torn off as a mark of their having been cancelled."<sup>1</sup> Trappes concludes that since Erith had dissolved the agreements he was no longer "a party concerned and of course not to be consulted."<sup>2</sup> Erith does not deny that he showed Trappes Dry's Agreement with the seals torn off. The point at issue, however, is that Dry's contract, as was Robertson's, was made separately from the others. The other seven servants were all included in one contract.<sup>3</sup> Erith emphatically denied having cancelled this agreement. The evidence is clear. Captain Trappes was acting contrary to the instructions laid down in the Deputy Colonial Secretary's letter and contrary to the Governor's instructions regarding this particular case. Either Captain Trappes did not examine the case closely, or he knew the facts and abused his powers. The balance of the evidence, in this case, favours the latter suggestion though it is fair to point out, Trappes was rather harrassed by responsibilities he was not equal to meeting. In the words of D.E. Rivett-Carnac Trappes "proved incapable of dealing with the many administrative problems which arose in the parties in which the head had hired labourers and brought them to the district at his own expense."<sup>4</sup>

By the end of July 1820, Erith, much against his will, was re-located on Edward Damant's former location, Waai Flaats. Erith did not accept this decision as final. He decided that due to the "outrageous conduct of Captain Trappes" he "had no

1. Records, Vol. 14, pp. 273-274.

2. ibid.

3. C.O. 48/148; p. 158

4. Rivett-Carnac, D.E. Thus Came the English, p. 65.

alternative but to hand his case over to his Excellency, the late Acting Governor praying that a full and fair investigation might take place."<sup>1</sup> After waiting, in vain, for four months for a reply, Erith presumed that his memorial had not reached Sir Rufane Donkin. On March 13th 1821, Erith wrote a private letter to the Acting-Governor in which he outlined his case. This approach was successful. Donkin originally intended replying in a private letter. In this letter he promised to enquire into Erith's case but that "it would be highly unjust in him to condemn any Magistrate on the statements of one party only."<sup>2</sup> This letter was not sent. Instead an official letter was sent by Lt. Col. Bird, the Colonial Secretary. In this letter, no reference is made regarding the Governor instituting inquiries into the claims of Erith. Rather Erith was directed to apply for the grant of a new location "without any reference to the conduct of the local authorities."<sup>3</sup> What is more, Bird accepts the fact that Erith's party was dissolved. The evidence is confusing. On the one hand the Governor, in his private letter book indicates that he would investigate the case. On the other hand there is the official letter, written on the same day, without any reference to the Governor investigating the case.

The private letter book of Sir Rufane Donkin shows the great intimacy which existed between himself and Lt. Col. Bird. He not infrequently sought Bird's advice on various matters.<sup>4</sup> It appears that in this particular case Donkin accepted the advice of Bird. For his part, it appears that for some reason or another Bird did not wish an investigation into Erith's case to be started. One reason which prompted Bird

1. Records, Vol. 14, p. 238.

2. Donkin, R.S. 'Miscellaneous and Demi-Official and Private Letters', March 1820-June 1821.

3. Records, Vol. 14, p. 239.

4. Donkin, R.S. 'Miscellaneous and Demi-Official and Private Letters', March 1820-June 1821.

to act in this way may have been the fact that Captain Trappes was related by marriage to him. This could explain his attempt to shield him.<sup>1</sup>

Erith nevertheless accepted these conditions, as laid down in Lt. Col. Bird's letter of 6th April 1821.<sup>2</sup> In June when the Acting-Governor was visiting the Eastern Frontier, Erith presented him with a memorial making application for another portion of land. Nothing became of this application. Erith's wife, however, did not accept the conditions laid down by Lt. Col. Bird. She sent in her own memorial to Donkin complaining of the actions of Captain Trappes.<sup>3</sup> The Governor replied that he could not investigate the matter "because Captain Trappes had taken it out of his hands by telling him that the allegations it contained were untrue and therefore she would hear from His Majesty's Fiscal in the course of a few days, as he meant to prosecute her for deformation of Character."<sup>4</sup> Erith and his wife waited for just on seven months, for Trappes to bring their case to court. In his memorial dated 31st December 1821, to Lord Charles Somerset, he asks for the Governor's intervention in this case. Failing this he would himself take his case to the next "Circuit Tribunal".<sup>5</sup>

The memorial was the culmination of Erith's attempts, since his arrival at the Cape, to obtain redress for the actions taken against him by Captain Trappes. Erith explored every avenue, short of a law suit, to obtain this redress of his grievances. The memorial outlined the actions taken

1. Donkin, R.S. 'Miscellaneous and Demi-Official and Private Letters', March 1820-June 1821. p. 327.
2. Records, Vol. 14, p. 239.
3. ibid.
4. ibid. pp. 239-240.
5. ibid. p. 240.

by Captain Trappes, which Erith felt were unjustified. It is a long, well written, and in the main a factual account of the dispute between the two men.<sup>1</sup>

The Governor asked Captain Trappes to explain his actions. This he did in a report, dated 21st January 1822.<sup>2</sup> The report of Captain Trappes in contrast to Erith's memorial was in many instances superficial and subjective.<sup>3</sup> It was, however, accepted by the Governor as a satisfactory defence of his actions. On February 13th, Lt. Col. Bird on behalf of the Governor replied stating that "His Excellency has ... perused your Memorial with the greatest attention, and having done so ... called upon Captain Trappes to reply to the grave accusations ... you have thought proper to bring against that Gentleman ... I am ... instructed to inform you that the Explanations which Captain Trappes has given upon every point ... have entirely satisfied His Excellency that Captain Trappes has in no wise done you any wrong..."<sup>4</sup> It is difficult to understand the Governor's decision, for quite clearly Trappes did not answer all the accusations made by Erith. It seems that the case was not seriously examined, for surely the inconsistencies in Trappes' report would then have been noticed. Perhaps Lt. Col. Bird, in order to shield his relation, persuaded Somerset that Erith's accusations were groundless. Whatever the explanation, the case was not given the attention it deserved.

There is no record of Erith's reaction to this set-back. It was insignificant in comparison to the shock he received on June 14th 1822, when he was informed that his land allocation would be cut by fifty acres. To quote his own phrases he

1. Records, Vol. 14, p. 240.

2. ibid. p. 270.

3. ibid.

4. ibid. p. 290.

says he was informed by "Mr. Knobel that he is only to have about 50 acres of entire Rock, by order of Lt. Col. Bird."<sup>1</sup> This was not all. He was to be turned out of the house which he had built and which he used to accommodate travellers, so as to earn a living. Erith was disheartened by this news for he asks "that your Excellency will grant him a pass to leave the shores of Africa for those of England, as it evidently seems he is marked out for Destruction." He added laconically that "he has not the fortitude to set (sic) down and see his three dear children starve."<sup>2</sup>

Despite the order, Erith remained in his house awaiting not only a reply to his request for a Colonial Pass, but also presumably a further explanation regarding his house. While Erith awaited the reply, an order was issued by the Landdrost to destroy his house."<sup>3</sup> The order was carried out on the 5th August 1822 by Messrs. Godlonton,<sup>4</sup> Gunning and Dixon who set fire to Erith's house.<sup>5</sup> The official explanation given for this act was that Erith had built his house on Dixon's land.<sup>6</sup> It is an explanation which is unconvincing.

It will be remembered that Erith had been placed on his location at the end of July 1820. It was only in June 1822 that Erith was warned that not only his land grant was first to be altered, then reduced, but that his house must also be demolished. How this decision was reached is obscure. In the first place Erith was not consulted in the matter. Secondly there were no maps of the locations at this time, which would have showed the boundaries accurately. Indeed

1. Records, Vol. 14, p. 397.

2. ibid. p. 398.

3. ibid. Vol. 32, p. 222.

4. Robert Godlonton, Member of Bailie's Party. Later Editor of the Grahamstown Journal, 1832. Member of the Legislative Council 1850-53; 1854-1878.

5. Records, Vol. 32, p. 219.

6. L.A.C. Vol. I, p. 45.

on June 2nd 1822 Rivers wrote to Knobel requesting a map of "Mr. Stanley's location especially that adjoining Messrs. Wilson and Morton's and those of Messrs. Dixon, Erith and Dalgairns."<sup>1</sup> Almost a year later, on 21st April 1823, Rivers complained to Knobel that "the great inconvenience I daily experience from the want of a plan and Diagrams of the Settlers locations in Albany obliges me, to request you will furnish me with them as quickly as possible..."<sup>2</sup> If by 1823 Rivers had no map of the locations, it was impossible for him to decide accurately, particularly as he did not investigate the matter, the boundary between Erith and Dixon.

The boundary between the two locations had been decided upon by John Dixon and Edward Damant on their arrival. Many witnesses came forward to give evidence as to the siting of the boundary. John Damant, the brother of Edward, official leader of Damant's party, stated that "to the best of his knowledge and belief that on dividing the place to Mr. J.H. Dixon and my brother Edward of the name of Waaye Plaats, the boundary came directly in the middle of the old barracks, and that he was present at the agreement which Mr. Ellis recommended by drawing lots."<sup>3</sup> George Marsden a member of Dixon's party testified "that the land on which James Thomas Erith had built his house at Waaye Plaats was on the East side of the stream, and according to the boundary pointed out to Mr. Damant by Lieutenant Colonel Cuyler and Mr. Ellis some hundred yards short of the location, the extent pointed out by them to Mr. Damant to be as a criterion for each party, viz. half the barracks."<sup>4</sup>

1. AY 9/2: H. Rivers to J. Knobel, 2nd June 1822.
2. AY 9/3: H. Rivers to J. Knobel, 21st April 1822.
3. Records, Vol. 32, p. 219.
4. ibid. p. 220.

The crux of the matter was whether Erith occupied Damant's location or not? To this question an unequivocal answer can be given. Captain Trappes was ordered by Lt. Col. Cuyler to make "certain changes ... in the location of several parties and Mr. Erith was ordered to be removed to Waaye Plaats vice Mr. Damant."<sup>1</sup> John Dixon, however, disputed this. Commissioner Colebrooke, when called upon by the Colonial Office in 1832 to give his opinion on the matter, stated that "Dixon who occupied part of this place [Waaye Plaats] had on the removal of Damant availed himself of the occasion to extend his boundary, as alleged with the sanction of Captain Trappes, the Deputy Landdrost."<sup>2</sup> This was untrue. Captain Trappes in a letter to Mr. Bigge, the other Commissioner of Enquiry stated that "had he been communicated with upon the subject, he should most decidedly have proved [Erith] was within his own boundaries, a public notice to that effect being expressly posted up by his orders at Bathurst for the satisfaction and knowledge of all parties."<sup>3</sup> Evidence shows then that Dixon had in fact trespassed: that he had hoodwinked Rivers into believing that it was done with the support of Captain Trappes. This explains, but does not excuse the actions of the Landdrost, Rivers, which was both harsh and unjustified.

Erith, despite the burning down of his house remained on his location. This action was not entirely voluntary on Erith's part. It was in part due to his not having received a reply to his request for a Colonial Pass. On the 16th September 1822, after a delay of some three months, he was

1. C.O. 48/148: p. 373, Enclosure 3.
2. C.O. 48/148: Col. Colebrooke to Colonial Office, 24/1/1832.
3. Records, Vol. 32, p. 223.

informed by Harry Rivers, the Landdrost, that his request "cannot be complied with."<sup>1</sup> This was a severe set-back for Erith, since now not only was he homeless, but also was unable to leave the country. The life of the Erith family during the next three years, was one of a constant struggle, on the one hand to establish their right to Wasi Flaats and to prosecute those who had burnt his house down. On the other hand it is the tale of their attempts to procure a Colonial Pass so that he could plead his case in Cape Town and if necessary return to England to apply in person to interview the Secretary of State for War and Colonies.

On 6th August 1822, the day after his house had been destroyed, Erith wrote to the Landdrost in order to find out, under whose authority this action had been taken. The Landdrost replied that, "It was not done by my orders, nor do I know anything of the transaction."<sup>2</sup> Erith decided, as the Circuit Court was due in Grahamstown, to await its arrival and sue Messrs. Godlonton, Gunning and Dixon in that Court. The case was brought before the court, but in an irregular fashion. Firstly Erith's suit was presented as a Civil case and secondly the Landdrost retired before the case was opened. Erith states that "astonishment was expressed by the Judges. (Messrs. Bentinck and Buissine) that the landdrost should retire previous to this case being brought forward, or that it should be considered a civil case, in open court."<sup>3</sup> Nevertheless the Judges did put a number of questions to the Landdrost and District Clerk. One of the questions asked by the Judges was whether "the land was measured previous to the house being built?"<sup>4</sup> The District Clerk replied that it had not been.

1. Records, Vol. 15, p. 51.

2. ibid. Vol. 32, p. 221.

3. ibid.

4. ibid.

The Judges then expressed "their regret that such a circumstance had taken place, and their inability to proceed with the trial in its present form."<sup>1</sup>

Erith's case then was not tried by the Circuit Court. Erith's statements regarding the proceedings of the Circuit Court unfortunately cannot be directly verified, since no official record of this particular case exists. Two factors, however, it would seem, substantiate Erith's statement. The very fact that there is no record of the trial suggests that the case was brought up in a very "informal manner,"<sup>2</sup> so informal that minutes were not taken of the proceedings. In the second place Erith is not afraid to mention by name not only the District Clerk and Landdrost, but also the two Judges. This would indicate that he would have nothing to lose if these gentlemen were approached to verify his statements.

Although the Judges of the Circuit Court refused to hear the case, as it was then presented, they advised Erith "to address the Landdrost in an official manner for it to be brought before a Court of Landdrost and Heemraden."<sup>3</sup> On 25th October, 1822 Erith sent such a letter, which, however, was not acted upon until March 13th, 1823.<sup>4</sup> It would seem however, that this case was again held in an irregular fashion. The only record of the case, merely states that Erith was summoned to appear before the court.<sup>5</sup> The minute book has no record of the case at all. Erith's version of the case, though it appears that he was not present,<sup>6</sup> states that when Mr. Rivers, presiding as Landdrost, called upon the culprits to defend themselves, "they handed in a letter written by Mr. Rivers, addressed to Mr. Dixon, in which he gives the

1. Records, Vol. 32, p. 222.

2. ibid.

3. ibid.

4. ibid.

5. AY 6/1: pp. 285-286.

6. AY 8/74: J. Erith to H. Rivers, 17th April, 1823.

following order: 'You will destroy the house in what way you think proper.'<sup>1</sup> Not unnaturally this defence proved to be entirely adequate. The case was thus dismissed. It is also not surprising that Erith should complain at the way in which the decision was reached. There can be little doubt that Erith was not given a fair trial and there was a miscarriage of justice.

Erith's dispute with the Government officials in Albany was complicated by two private law suits between himself and Dixon and Whittle respectively. The actual details of the cases are of no great importance. Rather their significance lies in the way in which they were conducted by the Government Officials. Erith had been ordered by the Court of Landdrost and Heemraden, early in 1822 to pay Dixon 120 Rds and Whittle 70 Rds. Erith acknowledged a debt of 80 Rds to Dixon, but was not satisfied that he should pay Dixon a further 80 Rds, or 70 Rds to Whittle.<sup>2</sup> He thus lodged an appeal with the District Clerk to be presented before the Circuit Court. He deposited 20 Rds with the District Treasurer, as was laid down by law. Erith, however, did not follow up his action, resulting in the appeals being cancelled. The Court, when it sat in October, 1822, ordered that the 20 Rds deposit was to be returned to Erith, but that Erith should pay the costs incurred by the cases.<sup>3</sup>

It was some five months later on the 10th April, 1823 that Erith "received a letter from Mr. Onkrudyt stating there were two Bills [against him] for expenses at the Court of Circuit in the cases of Whittle and Dixon."<sup>4</sup> Erith replied, nine

1. Records, Vol. 32, p. 222.

2. AY 8/74: Le Suer to Landdrost, 17th May 1823.

3. ibid.

4. ibid. J.T. Erith to H. Rivers, 15th May 1823.

days later, requesting that the Bills be sent to him.<sup>1</sup> Receiving no reply, he again wrote on the 5th May requesting the Bills. At length on the 9th May, the District Clerk replied that the Bills were in the hands of the Messenger, but "at the same time never said what messenger."<sup>2</sup> The letter was "accompanied with a threat (and that was not the first) saying they were in the Messenger's hands and if not immediately paid the expenses of them would be increased by their being handed over to the sequestor for Execution."<sup>3</sup> This threatening and unhelpful letter surprised and angered Erith. Nevertheless on the following day he wrote to Mr. Hulse, a Messenger, requesting a written reply. The verbal reply given by Mr. Hulse was astonishing. He told Erith that "Mr. Onkrudyt had forbidden him answering by letter as there were other messengers besides him."<sup>4</sup>

Erith therefore wrote to the other Messenger Robert Godlonton who replied in writing: "I have in my possession two Bills for Expences incurred (sic) in actions brought against you by Messrs. Dixon and Whittle in which you were condemned to pay the costs - the Date when they were handed to me I have no means of ascertaining - but as they have been laying in my hands a considerable time I must very shortly in the Execution of my Duty Present them to you for Payment - and if not complied with I shall be under the necessity of returning them for Execution."<sup>5</sup> Despite the threatening terms of the letter Erith was not intimidated. He again protested at the way in which the two cases had been brought before the Judges.<sup>6</sup> In addition he protested

1. AY 8/74: J.T. Erith to H. Rivers, 15th May 1823.
2. ibid.
3. ibid.
4. ibid.
5. ibid.
6. ibid.

most strongly at the way in which the Bills had been presented for payment.<sup>1</sup> It appears that the Messenger, not only having failed to present the Bills for five months, also refused to submit the demand for payment in writing.<sup>2</sup> Erith rightly stated that "all verbal replies are not considered official [and] I shall not notice such sort of communication."<sup>3</sup> This was for the obvious reason that he would have no guarantee that he had paid the Bills.<sup>4</sup>

The issue trivial in itself, is nevertheless important. In the first place it throws light on the character of Erith. The dispute shows that Erith was prepared to acknowledge a debt.<sup>5</sup> Secondly Erith was, however, legalistic, stubborn, forthright and persistent if he was of the opinion that the claims held against him were unjust. He was not prepared to admit the claims until he had explored every avenue open to him to alter the Landdrost's decision. It was a characteristic which he not only reveals throughout his long struggle to gain compensation, but it is indeed one of the chief reasons for his partial success. The dispute also reveals the way in which local affairs were administered. The revelation is not flattering to the Government officials. The most striking feature was the inability of the Landdrost to control the situation. After all, he had passed the sentence on Erith and must surely have known the dates and reasons for his actions. Yet he must frequently seek the opinions of the District Treasurer and the District Clerk, on Erith claims.<sup>6</sup> There seems to have been, on the Landdrost's part, an inability

1. AY 8/74: J.T. Erith to H. Rivers, 15th May 1823.
2. ibid. J.T. Erith to H. Rivers, 23rd May 1823.
3. ibid.
4. ibid.
5. AY 8/74: Le Suer to H. Rivers, 17th May 1823.
6. AY 9/3 : Letter Book of Landdrost Oct. 1822 - Sept. 1824.  
AY 8/74: Miscellaneous Letters to Landdrost: 1823.

to clarify the situation and arrive at a decision. The fault does not rest entirely with the Landdrost. The District Treasurer refused to reveal the name of the Messenger with whom the Bills were lodged.<sup>1</sup> The delay in the presentation of the Bills was in the region of six months. Indeed the Messenger, Godlonton, admitted that the Bills had been lying with him so long that he had "no means of ascertaining" their date.<sup>2</sup> When these factors are taken into account, it is not surprising that Erith had little confidence in the honesty, capabilities and efficiency of the local authorities in Albany.

Relations between Erith and the authorities were still further complicated and confused by his dispute with the Commissariat Department. On 14th April 1823 he wrote to the department requesting them to "furnish him with the Items of what Demands the Commissariat Department has against him - as he was about to leave the frontier."<sup>3</sup> This, the Department refused to do, unless Erith "signed the receipts for the Second and Third instalments of your deposit money but that immediately those papers are signed your account shall be handed you."<sup>4</sup> Erith refused, because he had only received his first instalment. He argued that it was unreasonable for him to sign the receipts for money he had not received.<sup>5</sup> The Commissariat for their part maintained that they could not give him a written statement of his account until he had signed the receipts. As neither party would alter its stand Erith left the frontier without settling the account. The issue was only settled in July 1825 when the balance of the deposit money, amounting to some 96 Rds, was || paid to Mrs. Erith.<sup>6</sup>

1. AY 8/74: J.T. Erith to H. Rivers, 15<sup>th</sup> May 1823.
2. ibid.
3. C.O. 48/148: J.T. Erith to Commissariat Dept. 14th April 1823.
4. ibid. Commissariat Dept. to J.T. Erith, 14th April 1823.
5. Records, Vol. 15, p. 358.
6. ibid. Vol. 22, p. 413.

One further dispute, which ran concurrently and was inter-related with the other disputes, still further strained relations between Erith and the local authorities. After Erith had received notification, on 16th September 1822, that a Colonial Pass would not be granted to him, he sent his wife to Cape Town to plead his case with the Governor.<sup>1</sup> Her visit was successful and in March 1823 a Pass was sent to the Landdrost.<sup>2</sup> When Erith applied for the Pass, he was informed that he must produce "certain documents" before the Pass could be issued.<sup>3</sup> After some delay Erith obtained the necessary documents from the Sequestrator and Vendue Master. The Landdrost, however, still refused to give Erith his pass "on grounds that the District Secretary had claims" against Erith with which he had not complied.<sup>4</sup> The struggle to obtain a Pass now became closely associated with Erith's law suits which had already brought him into conflict with the authorities. Despite this and the fact that by July no apparent decision had been reached regarding these suits, Erith was granted a Colonial Pass on July 8th 1823.<sup>5</sup>

Erith, however, did not immediately leave for Cape Town, but instead remained in Grahamstown. News had reached the Frontier that the Commissioners of Enquiry, Messrs. Bigge and Colebrooke, would soon be arriving to settle disputes. By March 1824 Erith after having waited "with a considerable degree of patience, and at great expense, for the arrival of His Majesty's Commissioners of Enquiry at the Frontier,

1. Records, Vol. 32, p. 223.

2. C.O. 48/148: p. 133 (a).

3. ibid.

4. AY 8/74: J.T. Erith to H. Rivers, 15th May 1823.

5. Records, Vol. 26, p. 326.

from a hope that his long pending and unfortunate case would have been finally decided by them, but found from undoubted authority that the power with which they are invested do not extend to the immediate reparation of injuries received from the local Magistrate."<sup>1</sup>

At the end of March 1824 Erith and his family finally left the Frontier for Cape Town. By this time it seems apparent that the claims Dixon and Whittle had against Erith were settled. There is no evidence to indicate how the disputes were settled. Erith thus left for Cape Town in order to settle his claims against the local authorities in Albany. He also made it quite explicit that should he not obtain satisfaction from the Governor, he would not hesitate to sail to England to lay his case before the Secretary of State for Colonies.<sup>2</sup>

Prior to leaving the Frontier, Erith addressed a Memorial to the Chief Justice, Sir John Truter. In the memorial he asks to be permitted "to prosecute Captain Trappes and Harry Rivers, Esq. in forma Pauperis in His Majesty's Court of Justice in Cape Town on the serious Charges of Injustice and oppression in the discharge of the duties of their high and dignified office."<sup>3</sup> Attached to the memorial was a sworn affidavit, sworn by Erith before A.B. Diets, a member of the Heemraad, in which Erith states that he was unable to prosecute these gentlemen at his own expense. The Fiscal, replying in August 1824, stated that he would not undertake to prosecute Captain Trappes and Harry Rivers. He said that "having taken into consideration that your principal complaint against the Landdrost of Albany has been laid before his Excellency the Governor, who decided thereon in his reply of the 29th March 1823, to the Memorial of Mrs. Erith,

1. Records, Vol. 32, p. 222.

2. ibid. Vol. 17, p. 171.

3. ibid.

I hereby beg leave to inform you that I do not feel myself justified to institute a criminal prosecution against any of the Public Functionaries whose conduct you complain of."<sup>1</sup> After this rebuff, Erith's efforts to obtain redress in the Colony could go no further, as no more avenues were open to him. Accordingly at the end of August 1824 he "was prevailed upon" by his wife "and Friends to embrace the truly kind and generous offer of the Commander of the May (Whaler) viz. a Passage free of Expense to the shores of England," so that he could lay his case before the Colonial Secretary.<sup>2</sup>

Mrs. Erith, with her three children, however, remained in Cape Town, and continued the battle with the local authorities. It was now that she enters the struggle in real earnest. As later events were to prove, Mrs. Erith was as stubborn and persistent as her husband. She was in addition, however, very much more forthright.

On the 9th September 1824 Mrs. Erith wrote to the Governor explaining her distressed situation and claiming relief from the Government.<sup>3</sup> The following day, an unusually prompt reply for the Colonial Office, the Assistant Secretary stated that "His Excellency cannot admit that you have any claim to relief from the Government..."<sup>4</sup> He went on to say, however, that "the question of Boundary between Dixon and Erith has never been fairly tried.." and that "he knows that Mr. Hayward has been furnished with documents in case it should come before him."<sup>5</sup> That this was a complete change of attitude on the part of the Governor, there can be no doubt. A little over two weeks previously Erith had been categorically told that his claims against the Landdrost (of which the boundary dispute was one) did not justify further

1. Records, Vol. 18, p. 240.
2. ibid. Vol. 23, p. 319.
3. ibid. Vol. 18, p. 281.
4. ibid.
5. ibid.

examination.<sup>1</sup> The change in the Governor's attitude could be ascribed to one of two motives. Firstly he might have been disturbed that Erith was already on his way to England to lay his case before the Colonial Secretary. Alternatively the Commissioners of Enquiry might have informed Lord Charles Somerset that many of the Landdrost of Albany's actions could be questioned and therefore it would be advisable to investigate the claims once more. In any event the Governor changed his mind and ordered Mr. Hayward to investigate Erith's claims.<sup>2</sup>

Mr. William Hayward had been appointed in May 1824 as a "Special Commissioner to settle disputes among settlers, to investigate their needs, and to advise what could be done to relieve them."<sup>3</sup> Hayward made two reports, dated 9th November 1824 and 22nd April 1825 on the claims of James Erith and his wife, Jane.<sup>4</sup> He dealt first with Erith's claims for cattle which had been "taken by the Caffres."<sup>5</sup> Erith complained that when he applied to the Landdrost for compensation, he was told that there were no more Caffre cattle to be distributed. Hayward accepted this explanation. He states "that J.T. Erith might have been late in his application,"<sup>6</sup> inferring that the principle for compensation was one of 'first come first served.' Erith being late could not hope to gain compensation.

Mr. Hayward then went on to deal with Erith's claim arising out of the 'Boundary Dispute'. In his first report he states "that James Thomas Erith having built upon W.T. Dixon's Location and persisting in remaining there notwithstanding repeated warnings, was at length ejected by

1. Records, Vol. 18, pp. 240-241.

2. ibid. Vol. 19, p. 114.

3. Theal, G.M. History of South Africa, Vol. 5, p. 311.

4. Records, Vol. 19, p. 115.  
Vol. 21, p. 133.

5. ibid. Vol. 19, p. 115.

6. ibid.

Authority, and the House destroyed in August 1822."<sup>1</sup>

This account does not, however, explain how it was ascertained that Erith had built upon Dixon's land. It is difficult to believe that Hayward really did investigate Erith's claim. In the first place he gives the wrong initials for Dixon, which could indicate his unfamiliarity with the case. In the second place he makes no attempt to prove that the decision of the Landdrost was just or correct. Indeed the shallowness of Hayward's argument is illustrated when in his second report he completely alters his argument. He now states that because Erith had left his location at the end of 1822 he could not be given either a diagram or Title to his location. It appears then in this instance Hayward did not investigate the matter, but rather accepted the arguments and decisions of the Landdrost.

The final claim dealt with by Mr. Hayward was in connection with the Commissariat Department. In this matter Hayward made a more thorough investigation. He tabled the accounts held by the Department against Erith, which totalled some 744 Rixdollars. He was thus partially correct in stating that "having procured from the Commissariat the Vouchers for issue of Stores and Provisions in detail to J.F. Erith, I have drawn up therefrom a General Statement of particulars, which is herewith transmitted, by which it appears that the Local Charge against James Thomas Erith is correct."<sup>2</sup> He was only partially correct since there was a balance of 96 Rixdollars still to be paid to Erith - a fact which Hayward did not mention and was one about which Erith had complained.

The investigations then of William Hayward did little

1. Records, Vol. 19, p. 115.  
 2. ibid. p. 116.

to settle the claims of Erith. It would seem though, that his drawing up of the Commissariat account did indirectly result in the balance being paid to Mrs. Erith on 26th July 1825.<sup>1</sup> The plight of Mrs. Erith, however, was one that this balance of the deposit money could not in any way substantially relieve. She thus asks Sir Richard Plasket, the Secretary to the Colonial Government, to provide her and her family with rations. In fact between July and October 1825, when Mrs. Erith left for England, there was a constant stream of letters written by Mrs. Erith to the Governor, asking for some kind of relief. Sir Richard Plasket it seems, took an interest in her case. In the first instance he set about settling the long standing 'Cattle Claim'. On the 15th August 1825 he wrote to the Landdrost of Albany directing him to "take the first opportunity of selling any kaffer Cattle at your disposal to settle Mr. Erith's claim."<sup>2</sup> The result was that in September 1825, the Government offered Mrs. Erith 30 Rds a month in lieu of payment for the stolen cattle.<sup>3</sup> Secondly Plasket approached the Fiscal in order to establish whether, according to Colonial Law, government relief could be given to distressed persons. The Fiscal replied, however, "that the usage of this Colony does not to my knowledge assign any allowances either in Money or in Rations to distressed Individuals merely on account of their distressed situation."<sup>4</sup> In any event the Fiscal told him that the allowance in lieu of the stolen cattle "will enable her to provide for the most urgent wants for herself and Children."<sup>5</sup>

1. Records, Vol. 22, p. 413.

2. ibid. p. 479.

3. ibid. Vol. 23, p. 101.

4. ibid. Vol. 22, p. 494.

5. ibid. Vol. 23, p. 31.

Thirdly the Secretary endeavoured to procure Mrs. Erith a free passage to England, but was unable to do this.

Mrs. Erith was grateful to Sir Richard Plasket, but was not satisfied with the not inconsiderable efforts he had made on her behalf. This can be attributed in some part to the undoubtedly difficult and frustrating position in which she was placed. Not only was she separated from her husband and struggling to support her three young children, but also was forced to try and gain compensation for the wrongs which she firmly believed had been done to her. In August she memorialised the Governor for a free passage to England.<sup>1</sup> At the same time she applied for financial assistance from the Government. The allowance of 30 Nix-dollars which Sir Richard Plasket secured for her, she rejected on the grounds of "the utter impossibility of so small a sum being adequate to support a Family of 5 Persons for one Month."<sup>2</sup> Her position was made worse by her and Sir Richard Plasket's inability to procure a free passage back to England.

In the last resort, on the 25th October 1825, Mrs. Erith, feeling that her pleas went unheeded by the Colonial Government, addressed a memorial to Lord Bathurst.<sup>3</sup> In the memorial she outlined the conduct of the Government and the Governor towards her in refusing her not only a free passage but also relief for herself and children. The strain under which she had been living during this time is clearly evident by the tone of the memorial. She did not hesitate to describe, and in detail, the behaviour of the Government officials, and indeed the Governor himself. She declared that "she was positively made ... the SPORT of exalted Power, in being sent to and from Government House to the Colonial Office

1. Records, Vol. 25, p. 320.

2. ibid. p. 105.

3. ibid. pp. 318-327.

several times with either Messages or Notes ..."<sup>1</sup> Disgruntled and angered by this treatment, Mrs. Erith was determined to place herself and her family under the protection of the Governor. The treatment she received at his hands she describes vividly. "Had Memorialist been addressing the Dey of Algiers, surprise would not have intruded itself on her mind at a conclusion so inhuman as followed. For your Lordship will learn with horror, that after such an address, made by an ENGLISH Female in a Foreign Clime, accompanied by four helpless Children, to an English Governor, it was repulsed by an express order to the Orderly to turn out Memorialist and Family, and close the doors of that stately edifice, a command which was evidently received with horror, and seemed to unnerve even the arm of a Menial..."<sup>2</sup> Mrs. Erith concludes the memorial with a plea to Lord Bathurst to direct an order to the Governor to give her a free passage to England. Before however, the reply of Lord Bathurst reached the Cape, Mrs. Erith was able "owing to the munificence of private Friends (among whom your Memorialist has the Honour of enumerating His Majesty's Commissioners of Enquiry) ... to return accompanied with her family to her beloved Country."<sup>3</sup>

Mrs. Erith sailed from Cape Town roughly five years after she had landed with the other Settlers in Algoa Bay. They had been years of bitterness and frustration. Part of the explanation lies in the character of James Erith who was an intractable stickler for legal niceties and as his contract with his indentured labourers suggests, sharp-sighted to his own interests. Yet close scrutiny of evidence suggests

1. Records, Vol. 23, p. 323.
2. ibid. p. 324.
3. ibid. Vol. 26, p. 290.

that however tactful he had been, he would probably not have fared better. The handling of his case by the men on the spot, Trappes, Cuyler and Rivers, no less than the Colonial Office in Cape Town,<sup>1</sup> was arbitrary, evasive and discreetly vindictive. In the event the five years which the Erith's spent in Albany, were to be but a prelude for further years of tenacious effort before an equitable settlement was made.

1. This excludes Sir Richard Flasket who succeeded Lt. Col. Bird as Colonial Secretary, December 1824.

CHAPTER FOUR

ERLICH AND THE COLONIAL OFFICE -

The Case of the Impertunate  
colonist considered.

Mrs. Erith arrived in England during April 1826, to join her husband and to lay her case before the Secretary of State for War and Colonies.<sup>1</sup> The personnel of the Colonial Office had altered somewhat since the Erith's had left for the Cape in January 1820. Lord Bathurst indeed was still the Secretary of State, but there had been other important changes. Wilmot Horton had succeeded Henry Goulbourn as Parliamentary Under-Secretary in 1821, while Robert Hay had recently been appointed as the first Permanent Under-Secretary. In addition James Stephen Jnr. had been appointed as full-time legal advisor to the Colonial Office.<sup>2</sup>

The Colonial Office, itself in the process of administrative reform, was investigating the governments of the various colonies it controlled and trying to re-model and modernise them. In the first place the Colonial Office had sent out the Commissioners of Eastern Enquiry to the Cape of Good Hope, Ceylon and Mauritius.<sup>3</sup> In the second place the Royal Instructions to Governors were being overhauled and brought up-to-date. As regards the Cape, the Office, besides its normal function of directing despatches to the Governor, was abnormally busy. The investigation of the claims made against the Governorship of Lord Charles Somerset, involved an investigation *inter alia* of the affairs of Donkin, Burnett, Cooke and Edwards, Fairbairn and Pringle.<sup>4</sup> Finally, the work of the Office was made more difficult because of the party and Parliamentary difficulties of Lord Liverpool's government.

By 1826 Lord Liverpool was faced with a serious division within his government. On the one side stood the ultra-conservative, High Tories, and on the other stood the more

1. Records, Vol. 26, p. 290.
2. sup. Chapter 1.  
infra. Appendix A.
3. Young, p. 158.
4. C.H.B.E. Vol. 8, p. 256.

liberal Canningites. The cause of this division ran deeper than merely the clash of personalities, though this did play its part.<sup>1</sup> The divisive factors were Catholic Emancipation and the Corn Laws,<sup>2</sup> questions which at this time were of paramount importance. It was a measure of Lord Liverpool's political skill and prestige, that he was able to hold his Cabinet together. Lord Liverpool was able to do this, because on the one hand he refused to give way on the question of Catholic Emancipation, but on the other hand, in economic and foreign affairs he supported the Canningites.

The Whig opposition numbering about two hundred in the House of Commons,<sup>3</sup> saw the difficulties which confronted Lord Liverpool's government. They were, however, not a single cohesive party,<sup>4</sup> a fact which nullified much of their opposition. They were strong enough to embarrass, but not coherent enough to displace the government. This was evident as regards the case of Lord Charles Somerset.

Lord Charles Somerset's second term of office as Governor of the Cape of Good Hope, had been attended by much criticism and controversy. So great was the criticism that his actions were questioned in the House of Commons. Professor Roberts, has warned that the 'Beaufort Influence' in the Commons, should not be over estimated.<sup>5</sup> On the other hand, Lord Liverpool could not, if possible, allow a hue and cry after Lord Charles, a member of one of the oldest and most respected families in England<sup>6</sup> - a family which supported his government. The Fabian tactics adopted by Lord Liverpool and more

1. Aspinell, A. The Formation of Canning's Ministry, p.XXIX.
2. ibid. pp. XXVII - XXIX.
3. ibid. p. XLIV.
4. Woodward, E.L. The Age of Reform, p. 55.
5. Roberts, M. Lord Charles Somerset and the 'Beaufort Influence'. A.Y.B. 1951. Vol. 2.
6. infra. Appendix B.

particularly by Lord Bathurst, were thus not only well suited but also in the end successful.

The criticism of Lord Charles Somerset had arisen initially because of his opposition to the establishment of a free press in the Cape Colony. In addition by 1825 the cases of William Parker and Bishop Burnett, as well as reports of his handling the 1820 Settlement, had forced Lord Bathurst to take action. In June Somerset's actions, relating to the case of Burnett were first raised in the House of Commons.<sup>1</sup> Wilmot Horton defended his actions by the argument that they were governed by the "defects of the Dutch law".<sup>2</sup> The government consistently put forward the argument, that until the Commission of Enquiry had been completed no action could be taken. Nevertheless, as a result of the agitation, Lord Bathurst granted Somerset leave of absence to enable him to return to England, in order to refute the charges laid against him.

The case against Lord Charles, however, never really got off the ground. In the first place, the opposition was weak<sup>3</sup> and though they tried to use Lord Charles' case as a weapon against the government, they were unsuccessful, since "Colonial questions were not questions upon which governments resigned".<sup>4</sup> In the second place, the opposition had great difficulty in substantiating their charges and in fact had to rely in the main on unreliable and unsatisfactory evidence, such as Burnett's.<sup>5</sup> Finally, the defence of Lord Charles by the Colonial Office was astute. The motives which prompted this defence have been variously interpreted. Miss Edwards suggests

1. Edwards, p. 119.

2. ibid.

3. Roberts, M. Lord Charles Somerset and the 'Beaufort Influence'. A.Y.B. 1951. Vol.2, p.28.

4. ibid.

5. sup Chapter I. p. 11.

supra

that the editing tactics of the Colonial Office were adopted in order to shield Lord Charles.<sup>1</sup> Professor Roberts, however, puts forward the view that these tactics "were intended not so much to protect Lord Charles as to protect the Colonial Office from attacks in the House of Commons: and were possibly also dictated by the general principle that colonial officials must be supported where possible against criticism in the House."<sup>2</sup> This was precisely the view expressed at the time by Somerset's arch-critic Sir Rufane Donkin. He stated, 'that the only support he [Somerset] will receive from them [the Ministers] will be that legitimate countenance and protection to which he is entitled by his office as long as he holds it'.<sup>3</sup> Bathurst then might individually criticise Somerset,<sup>4</sup> politically, however, in the interest of the government he must cover him, and such was the skill of Tory management that the case against Lord Charles petered out.

James Erith's campaign for compensation coincided not only with the waning of the Tory star, but also with an unusually busy period for the Colonial Office. Though Robert Hay remained as Permanent Under-Secretary the Erith correspondence went to three successive Secretaries of State, viz. Lord Bathurst, Lord Goderich and William Huskisson. The way it was handled reflects not merely the tactical dilemmas of a weakening party, but also the personal approaches to the duties of office.

In April 1826, soon after her arrival Mrs. Erith addressed a memorial to Lord Bathurst, in which she entreated him to

1. Edwards, pp. 121-140.

2. Roberts, M. Lord Charles Somerset and the 'Beaufort Influence', A.Y.B. 1951. Vol. 2, pp. 21-30.

3. ibid. p. 30.

4. ibid.



review her case.<sup>1</sup> Robert Hay, on behalf of Lord Bathurst replied promptly, the following day. He stated, that the Colonial Office could not consider her case since "Mr. Erith has never thought proper to bring his case under Lord Bathurst's cognizance, although he was invited by Mr. Hay to do so..."<sup>2</sup> This was indeed the case. Although Erith had been in England since the latter half of 1824, he had not approached the Colonial Office to investigate his claims. This Erith said was because he had been too ill.<sup>3</sup> He added, that his "mind being now more at ease on account of my Family I have no doubt but Health will follow."<sup>4</sup> There is no reason to doubt that Erith was anxious on account of his family, but it is difficult to accept that his sickness prevented him for months on end, from corresponding with the Colonial Office.

Erith enclosed with his letter "a Brief but Curtailed Statement of his case for His Lordship's consideration."<sup>5</sup> In this statement, dated 2nd May 1826, Erith outlined five claims he had against the Colonial Authorities at the Cape. Firstly, Erith attacked Captain Trappes' decision to move ✓ him from his original location to Waai Plaatz. Secondly, Erith claimed that some of his Articled Servants had been ✓ taken from him by Captain Trappes. Thirdly, he claimed against the destruction of his house at Waai Plaatz. ✓ Fourthly, Erith referred to his difficulties in obtaining a Colonial Pass. ✓ Finally, he alluded to the way in which he had been prevented from prosecuting Captain Trappes and Harry Rivers before the ✓

1. Records. Vol. 26, p. 290.
2. ibid. p. 293.
3. ibid. p. 324.
4. ibid.
5. ibid.

High Court in Cape Town.<sup>1</sup> Erith not only set forth his claims, but also took "the liberty to name to Mr. Hay that my Family weighing upon my exertions for their support I have no doubt His Lordship will see how unpleasantly I am situated, and till His Lordship will be graciously pleased to investigate into it, render me such assistance as His Lordship in His Wisdom shall see necessary."<sup>2</sup> This request, as Erith himself must have realised was futile. Apart from private charities, the Parish was the only source of poor relief. The Colonial Office had no funds for the relief of indigency; moreover, to have indulged Erith on this point, might later have been construed as evidence of wider obligation.

The Colonial Office reply was dated the 13th May 1826. It gives an excellent summing up of the grievances held by Erith against the Cape Authorities. Robert Hay wrote, stating that "these grievances appear to arise first: Out of the order conveyed to you by Captain Trappes to remove from the location which had been previously assigned to you by Captain Somerset; 2nd, Out of the attempts made by the Landdrost to abstract your articulated Servants. 3rd, Out of the destruction of a house which you had built within the limits assigned to you by the Provisional Magistrate. 4th, Out of the refusal of the Governor to grant his sanction to an action which you proposed to bring against the Landdrost. 5th, Out of the disallowance of your Claims upon the Commissariat."<sup>3</sup> Robert Hay went on to say, that Lord Bathurst would call upon Erith to produce documents in support of his first and second grievances. As regards Erith's fourth grievance,

1. Records, Vol. 26, pp. 325-328.

2. ibid. p. 324.

3. ibid. p. 351.

Hay stated, that "consideration of the ... subject of complaint which more immediately relates ..." to the Governor of the Cape, would be deferred, "until his arrival" in England, which could "be immediately expected".<sup>1</sup> Hay added however, that "with respect to the destruction of your house, and your claims on the Commissariat, I am to acquaint you that his Lordship is in possession of authentic information from which it appears that the house was only destroyed after the repeated warnings which were conveyed to you not to build upon the land of another person, and that it had been decidedly shown previously to your departure from the Colony that you had no claim whatever on the Commissariat."<sup>2</sup>

The Colonial Office reply to Erith's memorial, showed that they were prepared to investigate some of his grievances. Lord Bathurst's decision, however, not to review the third Head of grievance is difficult to justify. The only evidence Lord Bathurst can have had, is that submitted by the officials concerned to the Colonial Office, Cape Town. This included, inter alia, the report of Mr. Hayward which has been shown to be false.<sup>3</sup> In effect what Lord Bathurst studied, without due cross-examination was the evidence of the defendants only. It was, however, open to the plaintiff to submit his own documents, and this Erith did on May 22nd.<sup>4</sup> He repeated his plea for urgent consideration, and now asked Lord Bathurst to give him "some situation (however humble) that may enable him to provide the necessaries of life ..." for his family.<sup>5</sup>

1. Records, Vol. 26, p. 351.

2. ibid.

3. sup. Chapter III, pp. 71-73.

4. Records, Vol. 26, p. 387.

5. ibid.

That Lord Bathurst and the Colonial Office genuinely needed time to consider Erith's case is beyond doubt. Lord Charles Somerset had returned to Britain on May 17th. Commonsense, fairness and political discretion alike, necessitated that he should be consulted. Erith for his part however, was anxious for an early settlement of his claims, and as a result pestered the Colonial Office for a reply to his memorial.<sup>1</sup> Erith's anxiety was no doubt justified, but there can be little doubt that his pestering the Office must have annoyed the officials, who were doing their best to sort out his claims as quickly as possible.

Lord Charles Somerset was not approached immediately to report on Erith's claims, although he had intimated to Lord Bathurst that he was entirely at his "Lordship's service to have the honour of waiting on him at any time ..."<sup>2</sup> This was due to the fact, that it was only on the 30th May, that the Colonial Office received all the relevant documents relating to Erith's claims.<sup>3</sup> Soon afterwards, the documents were sent on to Lord Charles Somerset, asking him for his consideration of a "memorial ... from James Thomas Erith complaining of various grievances which he alleges to have sustained at the Cape of Good Hope." He was asked to report on the "several topics set forth in Mr. Erith's papers."<sup>4</sup> The papers included all those which had been sent by Erith to the Colonial Office, as well as Lord Bathurst's reply to Erith's first memorial, in which his decisions had been embodied. The ball was now in Somerset's court.

1. Records, Vol. 26, pp. 444; 462. Vol. 27, pp. 8; 30.
2. ibid. Vol. 26, p. 363.
3. ibid. p. 409.
4. ibid. pp. 415-416.

Lord Charles Somerset, in keeping with his family motto, 'I scorn to change or to fear', did not take the opportunity either to make a comprehensive study of Erith's claims, or to alter his previous decisions. This was apparent from the reply, which Somerset sent to the Colonial Office on the 19th June 1826.<sup>1</sup> Lord Charles observed that Erith's first two claims<sup>2</sup> were satisfactorily answered by Captain Trappes in his Statement dated 24th January 1822 ..."<sup>3</sup> This observation was of course consistent with his previous decision given on 13th February 1822, in which he told Erith, that he accepted Captain Trappes' statement in defence of his memorial of 21st December 1821. This statement of Trappes', as has been seen above, was neither adequate nor fair to Erith.<sup>4</sup>

Somerset observed further, that as "Lord Bathurst has decided that the 3rd and 5th [grievances] are futile, it remains for me only to allude to the 4th."<sup>5</sup> On the subject of this claim, Lord Charles explained that in the ordinary course of events, Mr. Erith could not have expected the Fiscal to prosecute Captain Trappes and Harry Rivers. He pointed out, however, that "if Mr. Erith should plead that he had not the means to carry on a Suit, he might, if he could have proved that assertion, have availed himself of the usage of the Colonial Law and have applied to the Court of Justice to appoint him an Advocate to carry on his Suit in forma pauperis."<sup>6</sup> Erith, had in fact followed the exact procedure which Lord Charles here outlined. On 23rd March 1824, Erith had addressed a memorial to the Chief Justice of

1. Records, Vol. 26, p. 467.

2. sup. p. 82.

3. Records, Vol. 26, p. 467.

4. sup. Chapter III, pp. 57-58.

5. Records, Vol. 26, p. 467.

6. ibid.

the Colony in which he asked him "to permit him [Erith] to prosecute Captain Trappes and Harry Rivers Esq., in forma pauperis, in His Majesty's Court of Justice in Cape Town on the serious Charges of Injustice and Oppression in the discharge of the duties of their high office ..."<sup>1</sup> Enclosed with the memorial was an Oath, sworn by Erith before A.B. Diets, a member of the Albany Heemraad, that he did not have the means to prosecute Captain Trappes and Harry Rivers.

Somerset's comment on Erith's 4th Grievance was then neither just nor accurate. Clearly Somerset's mind was made up before he read the evidence, if indeed he did so. He could in fact have made out a case in self defence. He should have pointed out that although Erith was not provided with an Advocate, the Fiscal himself, had studied his claims. It would have added further weight to his argument, if he had shown that the Fiscal did not feel justified to institute a criminal prosecution, on the grounds "that [his] principal complaint against the Landdrost of Albany has been laid before His Excellency the Governor, who decided thereon in his reply of 29th March 1823 to the Memorial of Mrs. Erith ..."<sup>2</sup> Whether the Fiscal was justified in accepting the Governor's decision is not the point at issue. What is at issue, is that it appears to be evident that Lord Charles did not study the case.

Several days later, Lord Charles was again called upon to advise the Colonial Office. He was asked "to explain to His Lordship the circumstances under which Mr. Erith was refused a Pass for leaving the district in which he was settled."<sup>3</sup>

1. Records, Vol. 17, p. 171.
2. ibid. Vol. 18, p. 241.
3. ibid. Vol. 27, p. 7.

His reply was prompt. Lord Charles gave a clear and concise account of the reasons, which prevented Erith from obtaining his Pass - reasons which according to Colonial Regulations were implemented by the Landdrost. The Colonial Office having consulted Lord Charles, was now in a position to review Erith's case. Before this was done however, Henry Ellis, a former Deputy Colonial Secretary at the Cape, was asked whether he had "any information which you may have it in your power to offer upon the subject" of Erith's claims.<sup>1</sup> Apparently he had nothing to report as there is no record of his reply. The methods thus used so far by the Colonial Office to investigate the claims of Erith, were comprehensive. The crux of the problem, however, now lay in the way in which all the evidence thus collected would be used.

The use which the Colonial Office made of the evidence was apparent in the letter, dated 4th July 1826, sent to Erith. Lord Bathurst stated, that as far as he was concerned, "no injury" had been done to Erith.<sup>2</sup> On the following day, Erith sent two letters to the Colonial Office. In the first he re-opened the case re: the Caffre Cattle, which had never been settled. In the second letter Erith asked Lord Bathurst to return the documents he had sent to the Colonial Office. Significantly he was non-committal on Lord Bathurst's decision. In the same letter, he reminded the Colonial Office to investigate the question of the Caffre Cattle. He stated that a sum of 1160 Rds was still owing to him.<sup>3</sup> This tactic of Erith's, namely to bring forward new claims at the moment when his previous claims had apparently been settled, was one which he and his wife repeated with

1. Records, Vol. 27, p. 13.

2. ibid. p. 31.

3. ibid. p. 30-31.

skill and eventual success. He added, rather pathetically, that "as nothing can be done for me (on the part of Government) that I shall be under the necessity this day of applying to the Lord Mayor on account of my Family."<sup>1</sup> Erith was obviously still in financial distress.

The Colonial Office presented with another problem, once again referred the matter to Lord Charles Somerset, who rightly stated "that no one has a claim on the Government for Stolen Cattle, but from a principle of Equity the Government has always compensated, by distributing Cattle retaken from the Caffres, persons who have suffered from their Depredations, as far as it was in its power to do."<sup>2</sup> He went on, however, to say that he did "not recollect that proof was ever adduced of Mr. Erith's having a claim for Cattle stolen by the Caffres; but in consequence of Mrs. Erith's asserting the great distress and Destitute Situation in which she and her family were left at the Cape, it was proposed to allow her Thirty Rixdollars per mensam until she could get an opportunity to return to England. The Thirty Rixdollars, alluded to by Mr. Erith was therefore advanced upon that Plea, strengthened by his wife's repeated assertion of having been a Sufferer by Cattle stolen by the Caffres."<sup>3</sup> This explanation differs markedly from the facts.

On August 15th 1825, Sir Richard Plasket<sup>4</sup> had written on behalf of the Governor to the Landdrost of Albany. "His Excellency desires that you will take the first opportunity of selling any Kaffer Cattle at your disposal to settle Mr. Erith's claim, and as he is at present in England, you

1. Records, Vol. 27, p. 31.

2. ibid. pp. 66-67.

3. ibid.

4. Secretary to the Government at the Cape.

will be good enough to order the number of cattle to which he is entitled to be put up to Public Sale on his Account and the Amount of such sale must be deposited in your Office until you receive further directions on the subject."<sup>1</sup> Furthermore the Fiscal, in replying to questions set by Sir Richard Plasket, as to whether Mrs. Erith was entitled to any Relief,<sup>2</sup> stated that "he [Erith] is acknowledged by Government to have a claim of indemnification against Government for the loss of Cattle taken out of his possession ... seems to entitle her in the absence of her husband to such allowance out of the intended indemnification as will enable her to provide for the most urgent wants of herself and children."<sup>3</sup> In addition, on September 5th 1825, Mrs. Erith had written to thank Sir Richard for "the advance on the Caffre Cattle."<sup>4</sup> On this evidence the Government and indeed the Governor himself, accepted the fact that Erith did have a legitimate claim for the cattle stolen from him. Lord Charles' explanation was thus not only inaccurate but also incorrect.

This then ended the first enquiry by the Colonial Office into Erith's case. It ended, not surprisingly in his claims being rejected. Erith however, was not to be deterred. On July 24th he sent in another Memorial to Lord Bathurst.<sup>5</sup> Erith's patience was now nearly exhausted. He wrote, that he "finding Verity is not the characteristic [sic] of the Colonial Government," he is, "compelled, with every deference

1. Records, Vol. 22, p. 480.
2. sup. Chapter III, p. 73.
3. Records, Vol. 23, p. 31.
4. ibid. p. 47.
5. ibid. Vol. 27, pp. 137-139.

to Your Lordship, to entreat Your Lordship will be pleased to call for every Document respecting those Cattle which has passed from 1821 to the end of 1825, and allow your Memorialist copies that he may have it in his power to reply to them, expose Fiction where it is so notorious, and undeceive Your Lordship thereon ..."<sup>1</sup> The remainder of the memorial was taken up by another re-statement of his various claims. Six days later, a reply came from the Colonial Office telling Erith, that as Lord Bathurst "having entered fully into all the charges which you have brought against the Colonial Government, his Lordship does not think it necessary to repeat what has already been stated in refutation of them ..." Robert Hay added that "as the substance of all the replies from the Colonial Government have already been communicated to you, his Lordship does not think proper to accede to your request in regard to the furnishing you with copies of them."<sup>2</sup>

Erith was stymied. It was to be six months before he again approached the Colonial Office. The reason for this delay was that Erith was awaiting the arrival of the report<sup>3</sup> of the Commissioners of Enquiry, which he felt would "no doubt (be) of a favourable nature respecting my case ..."<sup>4</sup> Consequently on 15th January 1827 he asked Robert Hay once more, to place his case before Lord Bathurst.<sup>5</sup> The reply dated 23rd January, must have been most disappointing for Erith, since he was merely referred "to the several communications which I [Hay] have addressed to you from time to time

1. Records, Vol. 27, pp. 137-139.
2. ibid. p. 172.
3. The Report on Finance, 6th September 1826.
4. Records, Vol. 30, p. 101.

for the purpose of conveying to you his Lordship's opinion on the alleged grievances, which you have brought under his Lordship's notice."<sup>1</sup> So far as Lord Bathurst was concerned, Erith's claims had been finally disposed of.

The case, as has been seen, was investigated. Indeed, the Colonial Office, as well as Lord Bathurst had been at great pains to consult as many people as was possible. Lord Bathurst emerges with some, but not much credit, for he placed too much weight on the evidence given by the Colonial Officials at the Cape, and he was clearly reluctant to press Lord Charles Somerset too closely. Erith himself could perhaps also be faulted, in that he did not set out his claims distinctly. Moreover he did not show up the inconsistencies, and there were many, in the arguments of the Colonial authorities. It will be seen how Erith remedied these defects and the success which attended his efforts. For the present however, Erith seemed to have accepted Lord Bathurst's decision, since he did not approach the Colonial Office until after Lord Bathurst had resigned the seals of Office.

On 17th February 1827 Lord Liverpool was struck down by an apoplectic seizure.<sup>2</sup> It was soon apparent that he would not be able to continue in office. The King, on the advice of Lord Liverpool's colleagues, delayed the selection of Liverpool's successor "until the crucial debates on corn and Catholics were over - on the 6th March".<sup>3</sup> It was not, however, until a month later, on 10th April, that the King finally instructed George Canning to form a government. This was difficult, since the overwhelming majority of High Tories,

1. Records, Vol. 27, p. 178.

2. Aspinall, A. The Formation of Canning's Ministry, p. XXIX.

3. ibid. p. XXXI.

including Lord Bathurst, refused to serve under him.<sup>1</sup>

Canning was thus forced to form his government from amongst his own supporters, and after a great deal of consultation and political manoeuvring, he managed to obtain the support of the Lansdowne and Brougham sections of the Whig party.<sup>2</sup>

It was <sup>in</sup> these difficult circumstances that the newly created Viscount Goderich took office as Secretary of State for War and Colonies. His position was made the more difficult, because he had been given the "lead" in the House of Lords.<sup>3</sup> It would seem that this change in the Head of the Colonial Office, prompted Erith to lay his case before the new Secretary of State. The memorial, written by Erith, was received by the Colonial Office on 4th June. In the memorial Erith laid his claims before Lord Goderich. He concluded the memorial, by asking Lord Goderich "to grant him such redress as will enable him to yet go forward with (the) agricultural pursuits", which he had set out to follow in 1820.<sup>4</sup> Nowhere however, does Erith mention for obvious reasons, the fact that Lord Bathurst had already investigated and rejected his claims. The Colonial Office however, had an official memory and the Permanent Under-Secretary, Robert Hay, no doubt informed Lord Goderich that Erith's case had been dealt with. As a result, Robert Hay in a terse reply referred Erith "to the several communications which have already been addressed to you upon the subject of your claims."<sup>5</sup>

1. Woodward, E.L. The Age of Reform, p. 75.

2. Aspinall, A. The Formation of Canning's Ministry, pp. XLIII - LIII.

3. ibid. p. XLVI.

Jones, W.D. Prosperity Robinson. The Life of Viscount Goderich 1782-1859, Chapters 5 and 6.

4. Records, Vol. 31, p. 440.

5. ibid. p. 524.

Undeterred, Erith submitted a further memorial the following month. This time he was forthright in stating that he could not "help apprehending that the strong points of my case, owing perhaps to the confusion and multiplicity of details, have escaped equally your Lordship's indulgence in once more submitting the following facts to your consideration."<sup>1</sup> He then enumerated the Five Heads of Grievances clearly and concisely, almost on the Pattern which Lord Bathurst himself had provided in his own review of Erith's case.<sup>2</sup> He then described the destitution into which his family had fallen, and implored Lord Goderich "to grant my wife a personal interview (I am myself unable to wait upon you) and to examine her and the documents which she anxiously desires to place in your Lordship's hands, and thereupon to grant us such redress as in all the circumstances of the case your Lordship may find just and reasonable."<sup>3</sup> Erith had in fact discovered two new lines of approach. Firstly, he attacked the basis on which Lord Charles Somerset made his decision viz. the "reports made to him by Captain Trappes and Mr. Rivers ..."<sup>4</sup> Secondly, Erith asked Lord Goderich to study the "opinion of the Commissioners of Enquiry respecting the very questionable conduct of those functionaries in other cases, as regards Captain Trappes at page 81 of Parliamentary Papers No. 371 compared with page 17, and as regards Mr. Rivers at page 91 of the same report ..."<sup>5</sup> He continued in the same vein,

1. Records, Vol. 32, p. 196.

2. sup. Chapter IV.

3. Records, Vol. 32, p. 196.

4. ibid.

5. ibid.

Erith refers here to the Papers re the Administration of the Cape of Good Hope, December 1821 to April 1826. 21st May 1827.



illustrating why the evidence of these two public functionaries at the Cape, should not be accepted without very careful cross-examination. In this most important memorial Erith not only stated his claims, but also, and perhaps more importantly, showed that the evidence on which the Colonial Office relied was not beyond suspicion.

Lord Goderich rejected this renewed appeal by Erith. His decision, it would seem, was taken on Mr. Hay's advice, since the reply was sent on the same day that the memorial arrived. It is not at all clear whether Erith received Goderich's reply; in any case he ignored it and two days later, on July 16th, Erith sent in yet another memorial, as well as requesting "A reply from your Lordship to my letter of the 13th Instant ..."<sup>1</sup> The issue is further complicated by Mrs. Erith, who wrote on the same day, acknowledging on behalf of her husband, a communication from Lord Goderich in which he acceded "to the prayer of his [Erith's] letter of the 13th Instant."<sup>2</sup> This prayer was the granting of a personal interview to Erith. Whether Erith received Lord Goderich's letter of the 14th July or not, cannot be ascertained. What is certain however is that between the 13th July and 16th July, Mrs. Erith once more entered the struggle.

This she did in no uncertain terms. As "Mr. Erith was unwell he therefore deputed me to take such papers as he thought were necessary and wait upon Mr. Hay."<sup>3</sup> The reception she received is best described in her own words. "I was surprised to find that no papers were wanted, nor would Mr. Hay look at any. The required object of attendance appeared to be (on the part of Mr. Hay) insult and reproach, for

1. Records, Vol. 32, p. 200.
2. ibid. p. 202.
3. ibid.

Mr. Hay commenced by censoring my conduct and (what he was pleased to term) my acts in exciting Mr. Erith to trouble your Lordship upon his case and claims, and after an harangue (to me) quite unintelligible, concluding it by observing 'But I have heard of your character before as a scolding very bad woman, and I believe it!'<sup>1</sup> Nor was this all. She goes on to accuse, perhaps justifiably that "because it is inimical to Mr. Hay's feelings to go into an investigation on this business (and because I have persevered in seeking redress...) he should endeavour to stop it by such conduct."<sup>2</sup> She even goes so far as to suggest to Lord Goderich, that it was doubtful "whether Mr. Hay can be considered a fit person to go into an investigation upon this subject, when it seems Mr. Hay's predetermination to defend Lord Charles Somerset in the face of all that can be alleged against that nobleman, for upon my attempting to refer him to the report of the Commissioners of Enquiry, and to be guided by them, I was desired not to name them again."<sup>3</sup> Mrs. Erith thus asks Lord Goderich "to appoint a person who will go thro' the documents in an unbiased and unprejudiced manner ..."<sup>4</sup> Finally, she stated that she refuses to have "further communications with Mr. Hay unless that gentleman will favour me with an explanation of his using such malignant aspersions."<sup>5</sup>

A letter such as this, could only have had two possible reactions. Lord Goderich could have either taken the letter

1. Records, Vol. 32, p. 202.
2. ibid. p. 203.
3. ibid. p. 203.
4. ibid.
5. ibid.

seriously and offered to investigate her claims, or dismissed the letter as a vicious, unwarranted attack on a senior member of his department. Lord Goderich surprisingly reacted favourably to Mrs. Erith's requests, and asked Erith, by letter dated 14th July, to produce the evidence he had to substantiate his claims.<sup>1</sup>

On July 26th 1827 Erith sent in his memorial to Lord Goderich.<sup>2</sup> In this highly detailed and closely argued memorial, Erith once more set out his claims. This time he did not hold back any evidence, nor did he neglect to examine closely Captain Trappes' statement and to produce evidence, in the form of affidavits, which showed that much of Trappes' statement was incorrect. Erith began the memorial by referring Lord Goderich to "the Memorial dated Waaye Plaats, December 31st 1821" and "the one dated Waaye Plaats, April 14th 1822."<sup>3</sup> These he maintained would show the difficulties, injustices, "oppressions and cruelties" under which he laboured at that time.<sup>4</sup> Erith moved on to a consideration of Captain Trappes' report. He explicitly stated that the report was "a mass of exaggeration and falsity ..."<sup>5</sup>

Erith dealt firstly with the claims arising from the actions of Captain Trappes, namely; the removal of himself and his party from their original location to Waai Plaats, and the disbandment of his party. Erith by examining Captain Trappes' statement, proves in many instances the

1. Records, Vol. 32, p. 215.
2. ibid. pp. 216-227.
3. ibid. p. 216.
4. ibid.
5. ibid.

incorrectness not only of Trappes' actions, but also of his explanations.<sup>1</sup> Erith dealt next, in considerable detail, with his claim against Harry Rivers: the burning of his house on his location at Waai Plaats. Here again he produced affidavits to substantiate his arguments. Erith also coupled his grievance re: the refusal of his Colonial Pass with the above claim. Again he substantiated his argument with documentary evidence. He then, in the same manner, dealt with his other Heads of Grievances viz. the Commissariat and the Caffre Cattle. Erith concluded the memorial with a shrewd résumé of the troubles, which had befallen him at the Cape. He stated "that Earl Bathurst promised 'a grant of land, (shall) be assigned to you upon landing, which was most certainly not fulfilled by the Colonial Authorities. Therefore to that I attribute the whole of the circumstances which afterwards transpired."<sup>2</sup> He showed, that despite great difficulties he had resided 2 years 4 months at Waai Plaats having, during that time, "fulfilled the stipulations of occupation and cultivation until driven hence by the acts of the local magistrate." In view of this and other wrongs which he had suffered, Erith's "only wish is therefore restitution for such accumulated injuries committed by the local functionaries and ... that I may be enabled to return and prosecute my agricultural pursuits ..."<sup>3</sup>

This memorial was by far the most closely reasoned account Erith had submitted to the Colonial Office. The memorial, however, arrived at an unfortunate time. The

1. sup. Chapter III, pp. 47-58 for a full discussion of Captain Trappes' Report.
2. Records, Vol. 32, p. 225.
3. ibid. p. 227.

health of the Prime Minister, George Canning, had been fast deteriorating during July, and on 8th August he died. Political life was already in turmoil. There was now added the unsettling speculations as to who would succeed Canning. After some days of manœuvring, discussion and intrigue the King, in the middle of August, appointed Lord Goderich as Prime Minister. Though it was only on September 3rd that he formally resigned from the Colonial Office, in the interim he had no time to attend to details of business.<sup>1</sup> This was left to the civil service secretariate, and the Permanent Under-Secretary, Robert Hay, had become almost immune to pressures like Erith's memorials. Important business, which was urgent was, however, attended to by Lord Goderich. Erith's case, no doubt a matter of extreme urgency in so far as he was concerned, was a matter which could be deferred for the attention of the new Secretary of State.

Whether Erith's memorial was forwarded to William Huskisson, the new Secretary of State cannot be established. It could be conjectured that Hay, already disenchanted with the case, might not have informed Huskisson of this particular memorial. The Eriths, under no illusions as to Hay's attitude towards them, were not likely to forget to remind the Secretary of State of their case. Indeed, on the 1st September and again on 22nd September Erith wrote to remind the Secretary of State that he was awaiting a decision to his case.<sup>2</sup> On the same day (22nd September), Erith was

1. Records, Vol. 33, p. 426.

2. ibid. p. 445.

informed that "As Lord Goderich no longer holds the Seals of the Colonial Department, he cannot interfere in your case."<sup>1</sup> As a result Erith sent in a copy of the memorial he had sent to Lord Goderich, as well as some additional evidence to William Huskisson.<sup>2</sup>

By November, Erith was ill once again, and it was Mrs. Erith who approached the new Secretary of State. This was an unusually long silence for the Eriths to keep, since previously they had pestered the Office for replies to their letters. The reason for their silence seems to have been that the Eriths realised that "the recent changes in His Majesty's Government...", had caused "no doubt a just and involuntary delay..." in the reviewing of their case.<sup>3</sup> In this letter, dated 5th November, and extremely civil in tone, Mrs. Erith asked Huskisson to review her case. She pleaded that "even the remainder of the Caffre Cattle Money would be of infinite service ..." to rescue her family from destitution.<sup>4</sup>

Four days later Erith at last received a reply to his letter of the 24th September.<sup>5</sup> It was a not un-sympathetic reply. Huskisson had gone through "the correspondence which has already passed between you and this Department, as well as the several explanations which have been received upon the subject of your case generally both from the Colony and from the late Governor ..."<sup>6</sup>

1. Records, Vol. 33, p. 446.
2. ibid. p. 451.
3. ibid. Vol. 34, pp. 101-102.
4. ibid. p. 102.
5. ibid. pp. 101-102.
6. ibid. p. 113.

As a result, Huskisson "certainly derived the impression that the failure of your Agricultural undertaking at the Cape has been the result partly of your own improvidence but still more perhaps of accidental circumstances which, however much they may be regretted, are not to be imputed as matter of blame to the Colonial Authorities, or as evincing any ill will on their part against you."<sup>1</sup> Huskisson was therefore "of [the] opinion that His Majesty's Government is not called upon to indemnify you for the losses which you unfortunately sustained by reason of the failure of your attempt to settle in the Colony."<sup>2</sup>

Huskisson had clearly examined Erith's claims as set before Lord Goderich in July; refusal to grant any redress could perhaps be best explained by a reluctance to alter the decisions of his predecessors. Yet even before Erith formulated a reply, he received another letter from the Colonial Office.<sup>3</sup> It was a most encouraging letter, written in reply to Mrs. Erith's letter of the 5th November. Mr. Hay, writing on behalf of Mr. Huskisson, stated that "although upon the subject of your husband's claims generally he can only refer you to my letter of the 9th Instant, yet that he is disposed to give instructions to the Lieutenant Governor of the Cape to remit to your husband the value of the cattle which were stolen from him by the Caffres."<sup>4</sup> He went on to point out that Erith must not consider "that the Colonial Government is bound to indemnify individuals for the value taken from them by the Caffres."<sup>5</sup> In addition

1. Records, Vol. 34, pp. 113-114.

2. ibid.

3. ibid. p.116.

4. ibid.

5. ibid.

the "orders (were) only given in accordance with the indulgent view which the Colonial Government had already taken of this part of your husband's claims, in order to grant you that assistance which you first solicited and afterwards declined."<sup>1</sup>

Huskisson clearly formulated his explanation of his decision in a directive, which he sent to the Acting Governor of the Cape, Major-General Bourke.<sup>2</sup> He stated, that he had perceived "from the correspondence which has passed upon the subject of Mr. Erith's claims that although the Government of the Colony does not consider itself bound to indemnify persons who may be robbed by the Caffres, yet that it has been usual<sup>3</sup> to assist them in recovering their stolen property, and that you had in fact directed the Landdrost of Albany to hold in reserve and to sell for Mr. Erith's benefit a number of Caffre Cattle equal to what was taken from him..."<sup>4</sup> He then instructed the Governor, to "give effect to that arrangement by instructing the Agent for the Colony to pay over to Mr. Erith either the proceeds of the sale which may have taken place under the Landdrost's directions, or if the sale has not taken place, the estimated value of so many cattle as Mr. Erith has lost."<sup>5</sup> Huskisson, who was a born administrator, had taken pains to master the evidence and re-assess it. He was renowned for his attention to detail, and as a contemporary noted Huskisson's health had been undermined by

1. Records, Vol. 34, p. 116.
2. ibid. pp. 125-126.
3. Author's under-lining.
4. Records, Vol. 34, p.126.
5. ibid.

the cares of the Colonial Office, as well as by the difficulties which beset Goderich's government.<sup>1</sup>

Huskisson's reply must have brought great relief to the Erith family, since the sum of £116 would go far in alleviating their distressed situation. It also renewed hope that Huskisson might review the rest of their case. On the following day Mrs. Erith went to the Colonial Office to see the Secretary of State. She was unable to see him, but instead saw Peter Smith, the Head of the Mediterranean and African Department, who "was so good as to say he would communicate viz. that the diagram of Mr. Erith's land may be given him and that he may be enabled to go forward with his agricultural pursuits, which was his grand object in leaving England ..."<sup>2</sup> On November 20th, Erith received a very favourable reply from the Colonial Office. Huskisson "having had under his consideration your application as expressed on your behalf by your wife, to be allowed to return to the Cape of Good Hope with the view of there resuming your agricultural pursuits...", decided that he was "not indisposed to assist you to a certain extent in the prosecution of your undertaking." Huskisson thought "it not impossible that means might be found for accommodating you and your family with a conveyance to the Cape, where in conformity with the expectations which had already been held out to you by the Colonial Government you will receive a fair compensation for the Value of the Cattle which were stolen from you by the Caffres." The Secretary of State

1. Jones, W.D. Prosperity Robinson. The Life of Viscount Goderich 1782-1859, pp. 192-203.
2. Records, Vol. 34, p. 122.

however, doubted "whether he could give any directions for securing to you the legal possession of the lands to which you would have been entitled, had you fulfilled the conditions<sup>1</sup> upon which such lands were originally placed at your disposal." He added however that "there would be no objection however to secure to you a moderate portion of land for the purpose of cultivation or pasturage." He warned him not to expect any other "facilities or assistance" to be given him.<sup>2</sup>

It had thus taken Erith one year and seven months to secure any compensation. Between the arrival of Mrs. Erith, in April 1826, and January 1828, when they embarked for the Cape, the Eriths had submitted no less than thirty-five ~~memorials~~ memorials and letters to the Colonial Office. Three ministries and three Secretaries of State had varied the political kaleidoscope. Nothing varied the monotony of the Eriths' campaign, except the certainty that they would be implacably importunate. Huskisson did not explain the reasons why he altered his decision. On the one hand he sympathised with Erith's case, while on the other hand he realised that not all Erith's claims were legitimate. The Secretary of State very sensibly did not order the Governor at the Cape to restore Erith to the lands he had been placed on in Albany. This in its turn would merely provoke pleas for compensation from others. His decision, humane though it undoubtedly was, had a touch of the Solomon about it. It was reasonable to suppose, that Erith in the Cape would mean respite for the Colonial Office, London.

Given an inch Erith was always eager to take a yard.

1. The Condition was that settlers had to occupy their lands for three years after their arrival.
2. Records, Vol. 34, pp. 128-129.

He not only thanked the Secretary of State for his decision, but also was careful to set out clearly, what he construed Huskisson's offer to mean.<sup>1</sup> Erith quotes Huskisson as writing that he was not "indisposed to assist me to a certain extent in the prosecution of my agricultural pursuits."<sup>2</sup> Huskisson however did not make this statement. What he did write was that he was "not indisposed to assist you [Erith] to a certain extent in the prosecution of your undertaking."<sup>3</sup> By this he meant granting the Eriths a free passage to the Cape and a "moderate portion of land." He expressly stated that no "other facilities or pasturage can be granted to you."<sup>4</sup> Erith was thus wrong to assume that once he had been given his land, any further help would be forthcoming. In the same letter, Erith unashamedly stated that his family was in dire need of clothing. Quite unabashedly, he asked the Secretary of State to advance him a loan of £60.<sup>5</sup> He certainly did not hold the Colonial Office in awe.

The Colonial Office did not let Erith remain long under these misapprehensions. In the letter of the 25th November 1827, Robert Hay made it quite clear to Erith, that "it is altogether out of his power to hold out to you (Erith) the promise of any assistance beyond what you have been given reason to expect that you might receive, to enable you to carry into execution your project of returning to the Cape."<sup>6</sup> Hay repeated that the Colonial Office offered Erith and his

1. Records, Vol. 34, p. 137.

2. ibid.

3. ibid. p. 129.

4. ibid.

5. ibid. p. 137.

6. ibid. p. 146.

family a free passage; compensation "from the Colonial Government [~~for~~] the value of your stolen cattle;" and "placed in possession of such a portion of land as the Lieutenant-Governor may think it just and reasonable to assign to you."<sup>1</sup>

Erith was however not to be deterred, and in a forcefully argued letter, dated 28th November, he tried to show that the Colonial Office's letter of the 25th was a "deviation" from their letter of the 20th.<sup>2</sup> The main tenor of his argument was that his compensation should be "equivalent to [~~his~~] serious losses."<sup>3</sup> He added however that his "wish to return to the Cape is not in the least abandoned, and if permitted to draw the sum named in my letter of the 23rd Inst. for an outfit for my family under circumstances already explained, I am desirous to embrace your proposals of the 20th Inst."<sup>4</sup> The reply Erith received was both diplomatic and shrewd. Robert Hay stated that "without now adverting to what has passed Mr. Huskisson understands that it is your wish to proceed with your family to the Cape; but that you are desirous of receiving previously to your embarkation a proportion of the money which is to be paid to you for the value of your stolen cattle. These two points being well understood, you will be ready to embark, and to give in an estimate of the value of the Cattle; and after Mr. Huskisson shall have made some enquiry .... he will .... decide what payment can be made to you in this Country on account of the Cattle."<sup>5</sup> Hay ended the letter

1. Records, Vol. 34, p. 146.
2. ibid. p. 158.
3. ibid. p. 160.
4. ibid.
5. ibid. p. 164.

curtly, requesting Erith "to endeavour to confine your communications to this Department to the final arrangements of your affairs in conformity with the expectations which have been held out to you; for you will only be deceiving yourself if you imagine that anything more will be done in your favour beyond what has been defined in this and in my proceeding letter of the 20th Instant."<sup>1</sup>

In the face of this letter, Erith accepted, for the time being, that he would get nothing more from the office. He accepted the decision and made ready to leave England. Preparations were made throughout December, by the Colonial Office, to send Erith back to the Cape. A letter was sent off to Major-General Bourke ordering him, to "grant to Erith a portion of land and any other facility which might properly be extended to him without forming a charge on the Public."<sup>2</sup> He was also informed that the Agent for the Colony, T.F. Courtenay, would pay Erith half of the value of the Cattle (£58), and instructed Bourke to "discharge the remainder of his claim on his arrival in the Colony."<sup>3</sup> On the 12th December, Erith received £58 from the Colonial Agent in part payment for the stolen Cattle.<sup>4</sup>

Letters were also sent to the Navy Board, asking them to arrange for a "steerage passage" for Erith and his family.<sup>5</sup> On the 20th December the Navy Board informed the Colonial Office, that accommodation would be available for Erith and

1. Records, Vol. 34, p. 165.
2. Author's underlining.  
Records, Vol. 34, p. 229.
3. ibid.
4. ibid. p. 241.
5. ibid. p. 230.

his family aboard the Charles Jameson.<sup>1</sup> When, however, on the 2nd January 1828, Brith was preparing to board ship, he was angry and upset by the accommodation he had been given.<sup>2</sup> He complained that his family was to have accommodation, which was fit only for a "common soldier."<sup>3</sup> After sending several letters of complaint, his accommodation was altered by order of the Secretary of State himself.<sup>4</sup> On the 23rd January, the Briths made their final peace with Huskisson, thanking him for all that he had done for them.<sup>5</sup>

Finally or so it then seemed on 30th January 1828, the Briths left England once more, aboard the Charles Jameson.<sup>6</sup> It was a voyage which held many surprises in store for the Briths.

1. Records, Vol. 34, p. 254.
2. C.O. 48/148: p. 202.
3. ibid.
4. ibid. p. 210.
5. ibid.
6. Records, Vol. 34, p. 267.

CHAPTER FIVE

SHEPHERD AND THE FINAL SETTLEMENT.

The Eriths set sail again for the Cape in 1828, eight years after their initial embarkation. Hopes were doubtless high; but the voyage did nothing to re-assure them. Soon after leaving, the ship was "compelled ... to put into Portland ... because of bad weather". On the 10th February they were caught in the squalls of the Bay of Biscay, and the Jib Boom was carried away. Eight days later they ran into "a dreadful storm ... which ... carried away our Bullwarks, nearly killed all our live stock washed away greater part of our cookhouse and killed one of the horses..." The Captain decided therefore to sail to St. Jago to refit and obtain fresh supplies.<sup>1</sup> On the evening of 10th March they arrived at St. Jago, but were "two hours to (sic) late" to anchor in the harbour. Early the following morning the ship struck a bed of rocks, killing the captain and destroying the ship and the goods on board.<sup>2</sup> The Eriths, however, managed to reach the safety of the island.

The British Consul advised the Eriths to sail to Rio de Janeiro, since it was unlikely that an English ship, bound for the Cape would call at St. Jago. They left St. Jago on the 1st of May in a leaky Portuguese vessel, managing to reach Bahia by the 16th June.<sup>3</sup> There it was found, that because of the condition of the ship "it was impossible for her to proceed to her port of destination."<sup>4</sup> After a considerable delay, the Eriths managed at last to board a ship bound for the Cape. The family finally reached Cape Town on the 7th March 1829; thirteen months after they had left England.<sup>5</sup>

1. St. Jago is one of the Cape Verde Islands, now called Santiago.
2. C.O. 48/148: J.T. Erith to R.W. Hay, 7th April 1828.
3. Bahia - a port in Brazil.
4. C.O. 48/148: p. 218.
5. ibid. p. 223.

Conditions in the Cape had changed since the Briths had left in 1825. Lord Charles Somerset no longer held the reins of Government. He had been succeeded by Major-General Bourke, who in turn was succeeded, on September 9th 1828, by another veteran of the Peninsula War, Lieutenant-General Sir Galbraith Lowry Cole. Less obvious, but more important, had been the constitutional and legal changes. There was a Council of Advice,<sup>1</sup> similar to that which had been established at Sydney. The duties of the Council were to advise the Governor, pass ordinances and discuss matters which the Governor might raise.<sup>2</sup> The Governor still however, had the right to act without the Council, or even contrary to the Council, so long as he justified his position to the Secretary of State.<sup>3</sup> Although the powers of the Council were very limited and ineffectual, it was the first step towards the limitation on the Governor's powers. The establishment of a free press, in April 1828, was a further check on the way the Governor exercised his powers. The Press Ordinance for the Colony was based on the law of England, so that newspapers were subject only to the law of libel, as interpreted by the Judges.<sup>4</sup>

The legal system as the Briths had known and experienced it, had been completely altered. The new machinery of justice

1. The Council consisted of: The Governor, the Chief Justice, the Colonial Secretary, the Officer Commanding, the Deputy Quartermaster-General, the Auditor-General, and Treasurer.
2. Walker, E.A. A History of Southern Africa, p. 161.
3. ibid. p. 162.
4. ibid. p. 163.

was laid down by the 1827 Charter of Justice. The Charter provided for a Supreme Court to be staffed by qualified judges,<sup>1</sup> and to hold office "quandiu se bene gesserint" liable only to temporary suspension by the Governor.<sup>2</sup> The Court of Vice-Admiralty was abolished and the duties of the Fiscal were taken over by the Attorney-General. In the sphere of local government, reorganisation was perhaps more noticeable. The Circuit Courts, established by the Proclamation of 1811, were continued and were to be held twice a year. The Courts of Landdrost and Haemraden were abolished as was the position of Landdrost. The judicial functions of the Landdrost were taken over by Resident Magistrates, while his administrative functions were taken over by Civil Commissioners. There was however, no change in the civil law which remained based on the Roman-Dutch code. Criminal Law followed more closely the pattern of English law.<sup>3</sup>

The Briths would also have noticed a marked change in the 1820 Settlement. By 1829 the settlement was well established and relatively prosperous, although along lines rather different from the plan of 1819.<sup>4</sup> The Settlers had adapted themselves to conditions at the Cape. Agriculture was now only practised in favourable areas. The presence of the military establishment on the Frontier provided a ready market for lucerne. The main occupations, however, were cattle and sheep farming. The latter, after the introduction

1. The Supreme Court was to be staffed by members of the Bars of the United Kingdom or of the Colony.
2. Walker, E.A. A History of Southern Africa, p. 163.
3. ibid. p. 164.
4. Hockly, Chapter XI.

of Merino sheep in 1826, surged ahead, so much so that by 1836 the value of wool exports totalled £26,000.<sup>1</sup> In other directions also the Eastern Cape went ahead. By 1829 both Grahamstown and Port Elizabeth were flourishing commercial centres. Grahamstown benefitted from the ventures of traders and hunters up country, as well as the fairs in the Ceded Territory - which had been thrown open to the settlers in 1824.<sup>2</sup> As the main port for the Eastern Cape, Port Elizabeth went ahead rapidly after the double custom dues for goods landed at Table Bay and then transhipped to Algoa Bay, were abolished in 1826.<sup>3</sup>

Despite the apparent sign of progress and security there always lurked the latent danger of the Xhosa Tribes, on the borders of the Settlement. In 1827, 1828 and again in 1829 rumours were rife that there would be an invasion of the Colony.<sup>4</sup> Displaced tribes collectively known to the colonists as Fetcani (Amangwane), driven by the Zulus to the north of them, were molesting the Xhosa tribes. In the area immediately south of the Stormberge, for instance, Matiwere<sup>^</sup> threatened the Cape Tembu. They in turn edged Macomo back into the Ceded Territory. In 1828 there were more serious rumours, namely that Shaka Zulu was about to invade the Transkei. Although the invasion of the Colony did not then materialise, the scare was sufficient for the Settlers to arm and to form a commando, in order to defend the Frontier. The Government sent regular troops under Colonel Henry Somerset,

1. Hockly, p. 143.

2. Rivett-Carnac, D.E. Thus Came the English, p. 84.

3. ibid. p. 79.

4. Hockly, pp. 149-151.

in 1828, into Kaffirland to oppose Shaka. Instead however, he defeated the Fetcani by mistake. These disturbances and the underlying insecurity and multiplicity of rumours on the Frontier, was to prejudice Erith against accepting a grant of land in this area.

Soon after arrival in the Cape, James Erith presented to the Governor, Sir Lowry Cole, the letter he had been given by <sup>the</sup> Colonial Office.<sup>2</sup> In this letter, written by Robert Hay, a duplicate of which had already been sent to the Governor, the instructions of the Colonial Secretary were set out.<sup>3</sup> Erith also took the opportunity to state "his objections to the Frontier, particularly as he now considered the late contention between Government and himself buried in oblivion, he therefore thought it most prudent to avoid returning to the quarter from whence those contentions originated ..."<sup>4</sup> No doubt also Erith, always careful of his own interest, was aware of the insecurity on the Eastern Frontier.

The first part of the instructions were soon carried out and the remaining money owing on the Caffre Cattle, £60, was paid to Erith.<sup>5</sup> In respect to the grant of land, Sir Lowry Cole told Erith that due to his objection to the Frontier, Erith should find a farm or piece of land which he would like and "then to lay it before him."<sup>6</sup> It was, however, no easy matter for Erith to find such a piece of land in the Western regions of the Cape. On the 4th May Erith addressed a memorial to the Governor for a grant of land. Erith "having made all possible enquiry respecting Government land, begs to call Your Excellency's attention

1. Walker, E.A. A History of Southern Africa, p. 182.  
Rivett-Carnac, D.E. Hawk's Eye, p. 72.

2. C.O. 48/148: p. 223.  
sup. Chapter IV. p. 102.

3. Records, Vol. 34, p. 229. R. Hay to Major-General Bourke,  
12th December 1827.

4. C.O. 48/148: p. 223.

5. sup. Chapter IV. p. 102.

6. C.O. 48/148: p. 223.

to the farm named Grote Poste as one your Memorialist conceives commensurate with the views of restitution laid down by His Majesty's Government on his behalf." He went on to state "that in making the application for Grote Poste he does not disguise from himself that there is an encumbrance of a lease for a term of years. But notwithstanding your Memorialist considers there is no other place so likely to ensure that success which the Noble Secretary of State had in view when he was graciously pleased to send your Memorialist back to this Colony." He further asks the Governor to "grant to him the free grant of Grote Poste with all and every emolument attached thereto."<sup>1</sup>

The Governor replied curtly that "the prayer of the Memorialist cannot be acceded to."<sup>2</sup> On the 18th May Erith sent another memorial to the Governor, asking him to find him (Erith) a farm, since he did not have "sufficient knowledge of the Government Farms."<sup>3</sup> The Governor in his reply to this request now explained, in more detail his inability to find Erith a farm. Sir Lowry Cole stated that he could not give "directions regarding the selection of a Farm for him ..." since "the Government Farms are all under lease and cannot be granted. If ever disposed of, it must be by public auction to the highest bidder ..." The Governor added that he regretted that Erith "should have any objection to the Frontier districts, as it is in these districts chiefly that unoccupied land can be found."<sup>4</sup>

Mrs. Erith now, once more, took up the dispute on behalf of her husband. On July 1st she sent a long memorial to

1. C.O. 48/148; p. 223.

2. ibid. Colonial Secretary to J.T. Erith, 13th March 1829.

3. ibid. J.T. Erith to Sir Lowry Cole, 18th May 1829.

4. ibid. Colonial Secretary to J.T. Erith, 1st June 1829.

the Governor, setting out their case and replying to the Governor's letter of the 1st June 1829.<sup>1</sup> The tone of the letter was not one of humility but rather one of aggressiveness. Mrs. Erith first of all implied that the rate of 2sh. to the Rixdollar was only "but fair compensation" for the value for the Caffre Cattle.<sup>2</sup> This was an unjustified attack since her husband had in fact been paid compensation at an exchange rate one quarter higher than was customary.<sup>3</sup> She went on to discuss the reasons given by the Governor for refusing to grant her husband any land. Sir Lowry Cole had stated that in terms of the instructions he had received from the Secretary of State he was to adjust Erith's claims "without forming a charge on the Public."<sup>4</sup> In consequence Cole did not know where he was "to take it from".<sup>5</sup> Mrs. Erith replied curtly that "it is certainly not for (her) to determine" how the Governor was to carry out the "Pledge" which the Secretary of State had given them. She concluded the memorial by requesting "a categorical reply to this simple question whether the Pledge given me by the Home Government can be redeemed at the hands of Your Excellency ...". If this was not possible Mrs. Erith stated that this would necessitate her "personal appearance once more at the Colonial Office in Downing Street."<sup>6</sup>

The Governor saw the matter differently: he argued that he had complied fully with the instructions sent by the Secretary of State. He showed that Erith had been compensated

1. C.O. 48/148: Mrs. Erith to Sir Lowry Cole, 1st July 1829.
2. ibid.
3. infra . p. 114.
4. Records, Vol. 34, p. 229.
5. C.O. 48/148: p. 224.
6. ibid. Mrs. Erith to Sir Lowry Cole, 1st July 1829.

for the loss of his cattle "at the rate of  $2\frac{1}{4}$  for the Rixdollar, higher by one fourth than has been paid any other individual."<sup>1</sup> He went on to re-iterate that he could not grant Erith Grote Poste "or any other Government Farm ..."<sup>2</sup> He did intimate however, that he "would be disposed to grant to him a Farm in one of the Frontier Districts where alone unoccupied land is to be found, and as he has declined to avail himself of the offer, the Governor has no means of affording him further assistance without making a charge against the Public which His Excellency has been directed not to do ..."<sup>3</sup> Sir Lowry Cole could thus do nothing more to help Erith.

Mrs. Erith was not satisfied. On the day that the letter arrived she wrote her reply. She refused to recognise that the Government had complied with the Secretary of State's instructions. She argued that "the disimbursement of the remainder of the Caffre Cattle money (which is now expended) Your Excellency must be aware was never intended as any part of that arrangement (since) it was made on the 13th of November (and) consequently totally unconnected" with the agreement of the 20th November 1827.<sup>4</sup> It is apparent that Mrs. Erith and the Governor interpreted the Secretary of State's letter of the 20th November in different ways. The crux of the issue lay in the interpretation of Huskisson's statement that he was "not indisposed to assist you to a certain extent in the prosecution of your undertaking."<sup>5</sup>

1. C.O. 48/148: Sir Lowry Cole to Mrs. Erith, 25th July 1829.
2. ibid.
3. ibid.
4. ibid. Mrs. Erith to Sir Lowry Cole, 25th July 1829.
5. Records, Vol. 34, p. 129 and supra Chapter IV. p. 102.

Mrs. Erith argued that this did not include the reimbursement for the cattle - matter which she considered as quite separate. The Governor on the other hand, taking the letter as a whole noted that the Secretary of State had explicitly told Erith that he could "not expect that any other facilities or assistance can be granted" to him.<sup>1</sup> Sir Lowry Cole was also aware that the question of the cattle was included in the letter of the 20th and coupled with the other instructions.

Mrs. Erith went on to argue that the Governor had been labouring under a misconception as to the wishes of her husband. She said that her husband "is now and has ever been ready to receive at the hands of Your Excellency any Farm you may be pleased to assign to him." Her husband "certainly took the liberty ..." to inform the Governor of his unsuitability for farming on the Frontier, "but in so doing he by no means wished to be understood as wholly declining to accept a Farm in that part of the country."<sup>2</sup> This was almost a Jekyll and Hyde situation. Mrs. Erith, as the alter ego, blandly ignored that Erith had twice specifically applied for the grant of Government Farms in the Western Cape. At no time did he apply merely for a grant of land. Erith had also left no doubt about his objections to farming on the Frontier. In March 1829 he had an interview with the Governor in which he stated "his objections to the Frontier."<sup>3</sup> Then on May 18th he again re-iterated his objections to the Frontier.<sup>4</sup> It is difficult to see how the Governor could be said to labour "under a misconception"<sup>5</sup> of the wishes of James Erith. He

1. Records, Vol. 34, p. 129 and supra Chapter IV. p. 102.
2. C.O. 48/148: Mrs. Erith to Sir Lowry Cole, 25th July 1829.
3. ibid. p. 223.
4. ibid. p. 224.
5. ibid. p. 226.

was in fact acutely aware of Erith's desires, and unable to comply with them since to do so would be to ignore the instructions given to him by the Secretary of State.

Mrs. Erith ended her memorial by threatening that "I fear there is an indispensable necessity for again making my personal appearance at the Colonial Office, Downing Street, and I deem it my duty to inform your Excellency that I shall make every arrangement to embark as soon as possible. Should your Excellency therefore feel that you possess the means of averting from my family this difficult and painful step, I trust your Excellency will honour me with a communication." By the 12th August, as she had not received a reply from the Governor she boarded a Naval Transport ship,<sup>2</sup> leaving behind, her husband and three children.

Mrs. Erith ostensibly returned to England in order to dispute the actions of the Governor of the Cape. Mrs. Erith arrived in November 1829, after an absence of nearly two years. She found that William Huskisson was no longer Secretary of State for War and Colonies. Huskisson, although a Canningite and leader of a group, had consented to join the Duke of Wellington's Government, in January 1828. Within a few weeks differences of opinion arose within the Cabinet on almost every question that came under discussion.<sup>3</sup> In May Huskisson and three of his closest supporters resigned from the Cabinet.<sup>4</sup> His position was taken by Sir George Murray, the Commander-in-Chief of the Army in Ireland. Though Murray was a skilful and fluent speaker,<sup>5</sup> it was

1. C.O. 48/143: Mrs. Erith to Sir Lowry Cole, 25th July 1829.

2. ibid. p. 334.

3. Aspinall, A. The Last of the Canningites  
E.H.R. October 1935, p. 650.

4. ibid.

5. This is not the view of N. Gash vide Mr. Secretary Peel. The Life of Sir Robert Peel to 1830. p. 658; but this is not supported by his biographer in the Dictionary of National Biography or by the records in Hansard.

Should read, N Gash etc. - holds the opposite view.

apparent that during his term of office, policy was directed behind the scenes by Lord Bathurst, Henry Goulbourn and the Duke himself.<sup>1</sup> Murray attended to the day to day running of the office. The Erith correspondence in general shows that the Colonial Office was punctilious and prompt, in dealing with his letters.<sup>2</sup>

Robert Hay was still the Permanent Under-Secretary of the Colonial Office and advised Sir George Murray that the Erith case had already been settled. Murray accordingly expressed himself "entirely at a loss" to know why Mrs. Erith had come back to England.<sup>3</sup> He stated that he had "no observations" to make regarding the papers she had sent to the Office. He told her however that it was up to her "to offer such explanation upon" the papers as she thought necessary.<sup>4</sup> Murray, no doubt prompted by Robert Hay, remembering her persistence, asked her to keep her correspondence with them brief.<sup>5</sup>

On the 19th November, 1829 Mrs. Erith replied that she "flatters herself there will not be any necessity for an Epistolary correspondence, therefore feel obliged if Mr. Hay will favour her with an interview..."<sup>6</sup> On the 23rd in reply to the Colonial Office's letter of the 17th Mrs. Erith gives her reasons why she has returned to England. It was her contention that Sir Lowry Cole had not fulfilled the Pledge of 20th November 1827. She therefore asks Sir George Murray to take the case into his consideration.<sup>7</sup>

1. sup. Chapter 1. p. 10.

2. C.O. 48/148.

3. C.O. 49/22: R.W. Hay to Mrs. Erith, 17th November 1829.

4. ibid.

5. ibid.

6. C.O. 48/148: Mrs. Erith to R.W. Hay, 19th November 1829.

7. ibid. 23rd November 1829.

The following day the Colonial Office replied that they were "still at a loss to Understand ..." why Mrs. Erith had returned to England. Murray then went on to discuss Sir Lowry Cole's actions. He found nothing to criticise and stated that if Mr. Erith "instead of accepting the land which was offered him ..." chose to apply for Government farms, he "must attribute his disappointment to his own indulgence in expectation which he was warned not to entertain."<sup>1</sup>

As could perhaps be predicted Mrs. Erith refused to accept Sir George Murray's decision. On November 27th Mrs. Erith sent in yet another long letter to Murray. She was angered by Murray's inability to understand why she had returned to England. She wrote that "with all deference to you, Sir, allow me simply to state the reason, viz. The non-fulfilment of the Pledge given at the Colonial Office, Downing Street, November 20th 1827, as restitution for oppressive and unjustifiable acts committed by the Local Functionaries of Cape Town, Cape of Good Hope during the years 1822, 1823, 1824 ..." <sup>2</sup> She then launched into a discussion as to why in her opinion, the "Pledge" had not been fulfilled. She again tried to show that the decision taken in regard to the 'Caffre Cattle' formed no part of the agreement of 20th November 1827. Fundamentally however, the whole question revolved around the grant of land. She quoted the Governor as having said "that unoccupied land is alone to be found in the Frontier Districts"; but Mrs. Erith

1. C.O. 49/22: R.W. Hay to Mrs. Erith, 24th November 1829.

2. C.O. 48/148: Mrs. Erith to Sir George Murray 27th November 1829.

said "His Excellency well knows the worthlessness and insufficiency of those lands ..."<sup>1</sup> Here lies the basis of the dispute. The Governor could only offer the Eriths land on the Frontier, without "forming a charge on the public."<sup>2</sup> It was precisely these lands which the Eriths, for several reasons were unwilling to accept. The term "Pledge", first used by Mrs. Erith in her letter to Sir Lowry Cole on July 1st 1829, seems to have promoted the letter of November 20th 1827 to the level of a private Magna Carta for the Eriths. Albeit without much enthusiasm, Sir Lowry Cole had done what could be done in terms of the actual phrasing of his instructions.

After discussing the rôle played by Cole, Mrs. Erith altered her line of argument. She moved on to a résumé of the whole dispute and attacked the settlement made by Huskisson. In the letter of the 20th November 1827, the Secretary of State had expressly stated that he "doubts very much whether he could give any directions for securing to you the legal possession of the lands to which had you fulfilled the conditions upon which such lands were originally placed at your disposal."<sup>3</sup> Mrs. Erith quite rightly points out that they were unable to complete their tenure of the land since the burning of their house. Her argument is rather beside the point since Huskisson's agreement of the 20th November, created a new situation. She was thus flogging a dead horse. Mrs. Erith ended the letter with a plea to Sir George Murray to re-investigate her claims.<sup>4</sup> Three days later Murray replied saying that he could see no justification in reviewing her case.<sup>5</sup>

1. C.O. 48/148: Mrs. Erith to Sir George Murray, 27th November 1829.
2. Records, Vol. 34, p. 128.
3. ibid. pp. 128-129.
4. C.O. 48/148: Mrs. Erith to Sir George Murray, 27th November 1829.
5. C.O. 49/22: R.W. Hay to Mrs. Erith, 30th November 1829.

Mrs. Erith was in no way disconcerted. On the 2nd December she again wrote to the Colonial Office outlining her arguments and included copies of letters which she had received from Huskisson in 1827.<sup>1</sup> While the Colonial Office considered the form of a reply, Captain Hill, R.N. who had commanded the ship on which Mrs. Erith sailed from Cape Town, presented to the Colonial Office the Admiralty's account for her passage to London. When he replied on the 19th December, the Colonial Secretary not only stated that his attitude towards her claims was unchanged, but also that he was "extremely surprised that Mrs. Erith should have taken such a step, as that of referring Captain Hill to this Department for the payment of the passage, as it must have been known that the Secretary of State would not be justified in authorising any such payment."<sup>2</sup>

Nothing daunted, Mrs. Erith in her reply commiserated with Sir George Murray, who must she said "in some measure be disgusted with the repetition of a case which savours so much of vindictive and malignant feelings..."<sup>3</sup> As her excuse she pleaded her poverty and the destitution of her family. She defended her action in referring Captain Hill to the Colonial Office. She bowed first of all "to the correctness of the observation that I had no written authority for referring Captain Hill to the Secretary of State ... for the discharge of £60 for my passage money ... but under existing circumstances I never for one moment doubted but the request would be complied with, placing the reimbursement to Mr. Erith's account."<sup>4</sup> This letter illustrates

1. C.O. 48/148: Mrs. Erith to Sir George Murray, 2nd December 1829.
2. C.O. 49/22: R.W. Hay to Mrs. Erith, 19th December 1829.
3. C.O. 48/148: Mrs. Erith to Sir George Murray, 22nd December 1829.
4. ibid.

very well, the blend of shrewdness, naivety and frankness which characterises her correspondence with the Colonial Office.

When, on January 2nd 1830, Robert Hay re-iterated the points already made by the Colonial Secretary, Mrs. Erith explored a new line of communication. Instead of addressing Sir George Murray through the Permanent Under-Secretary, Robert Hay who was unsympathetic towards her, she now approached Murray through his Private Secretary, Wedderburn. Mrs. Erith raised a new issue, namely of expenses incurred through their shipwreck on the voyage to the Cape in 1828. The Colonial Office denied responsibility and stated that it could not take into "consideration payment for the shipwreck".<sup>1</sup> Mrs. Erith however, quoted from her now voluminous files, the letter of 20th November 1827 in which the Colonial Office had promised to convey them back to the Cape free of expense. But in the same letter Huskisson had warned that if they took up his offer "it must be with the understanding that you do so entirely at your own risk."<sup>2</sup> The shipwreck being unforeseen was thus something for which the Colonial Office could not be held responsible. All her efforts were in vain. Even when she pleaded "that in this inclement season of the year (so unlike the highly favoured climate of Southern Africa)" the refunded money would "add materially to necessary comforts,"<sup>3</sup> the official mind was adamant, even in the face of no less than five letters.<sup>4</sup>

1. C.O. 49/22: R.W. Hay to Mrs. Erith, 2nd January 1830.

2. Records, Vol. 34, p. 129 and supra Chapter IV. p. 101-103.

3. C.O. 48/148: Mrs. Erith to Wedderburn, 3rd February 1830.

4. ibid. Mrs. Erith to Wedderburn, 12th; 15th; 19th; 24th January and 3rd February 1830.

On February 10th, 1830, Mrs. Erith repeated a line of attack made twice previously, namely demanding yet another investigation into the whole case of James Erith since Sir George Murray clearly laboured "under a most serious misconception" as regards who was responsible to pay for the passage money to the Cape.<sup>1</sup> The answer was prompt. Sir George Murray said that he would "give any attention which other public business admits of, to any statement which you can think can throw any new light upon the case of your husband." He warned, however, that he had "no reason to doubt the justice of former decisions made in this office respecting Mr. Erith's claims."<sup>2</sup>

The Colonial Office then despite becoming increasingly weary of this case, had not yet shut the door to Mrs. Erith. Indeed the offer shows up the Office in an extremely good light. It would have been easy for Sir George Murray merely to terminate the correspondence. This he did not do. Instead he quite rightly placed the onus on Mrs. Erith to bring forward any matter which she thought would bring "new light" to bear on her claims.<sup>3</sup> The Colonial Office far from being dictatorial allowed Mrs. Erith, who after all was a very lowly person, every opportunity to present her case.

Mrs. Erith accepted Murray's invitation and wrote a letter dated 27th February, accompanied by the necessary documents to the Colonial Office. In the letter she once more outlined her claims. She explained that "as there no doubt will be parts in so complex a mass which may require elucidation, I earnestly entreat I may be permitted the honour

1. C.O. 48/148: Mrs. Erith to Wedderburn, 10th February 1830.

2. C.O. 49/22: R.W. Hay to Mrs. Erith, 13th February 1830.

3. ibid.

Author's under-lining.

of an interview to explain them."<sup>1</sup> She went on to discuss Huskisson's agreement which was embodied in his letter of 20th November 1827. The Eriths put a different interpretation both upon the Colonial Office correspondence and the resultant letters of Sir Lowry Cole. The letter of November 20th, 1827 had been quite clear: and the Colonial Office had at no time accepted the various constructions which the Eriths attempted to put upon it. On this occasion Mrs. Erith added yet another rubric to her reading of it. She not only asked for a farm but also "necessary equipment such as Cattle etc. .."<sup>2</sup> Her thesis was that the very offer of redress or compensation however hedged about by official correspondence, implied that the Eriths had a viable case to argue.

Robert Hay replied on the 5th March stating that "The Secretary of State has caused an accurate examination to be made of the papers which you have transmitted to this department ... and the result is that Sir George Murray is unable to discover that any fresh matter has been produced which after consideration would require an answer different to what has already been communicated to you."<sup>3</sup> This did not stymie Jane Erith. Six days later she returned to the charge, that Sir George Murray had not given the personal attention implied in his letter since he had only "caused an examination to be made."<sup>4</sup> Moreover, she held that the papers did include fresh matter. "I must now take liberty to bring distinctly under Secretary Sir George Murray's notice a circumstance which these papers unfold, but which most

1. C.O. 48/148: Mrs. Erith to Sir George Murray, 27th February 1830.
2. ibid.
3. C.O. 49/22: R.W. Hay to Mrs. Erith, 5th March 1830.
4. C.O. 48/148: Mrs. Erith to Sir George Murray, 11th March 1830.

assuredly you, Sir, have not been made acquainted with by the examiner of them, viz. that the Commissariat Department is at this moment upwards of 30 Pounds in arrears with Mr. Erith on the part of his Deposit Money, which he paid into His Majesty's Treasury in 1820."<sup>1</sup>

Mrs. Erith's interpretation of what she considered a "fresh matter" and what the Colonial Office considered a "fresh matter" was very different. Sir George Murray now entirely concurred "in the decision of his predecessor as to the invalidity of the claim ..."<sup>2</sup> Indeed it would have been astounding had it been otherwise, since it had previously been clearly shown that Erith had been re-paid the balance of the deposit money owing him.<sup>3</sup> Mrs. Erith was not disheartened. In her next letter she bluntly informed Sir George that the decision of his predecessor was bad and invalid.<sup>4</sup> She took the opportunity to discuss anew all her other grievances. The Colonial Office was now satiated. The letter was docketed; "no answer required as this application contains no new facts."<sup>5</sup>

Once again, Mrs. Erith changed her front but not her ground. When after an interval of six days she had received no answer, she formally requested a reply.<sup>6</sup> She now also requested to be allowed to meet the Assistant Commissariat General, Hewitson in the presence of Sir George Murray so that she could lay her case before him. When that failed she sought direct access to Sir George Murray on the grounds that

1. C.O. 48/148: Mrs. Erith to Sir George Murray, 11th March 1830. James Erith had paid £105 (840 Rixdollars) in deposit to the Treasury. He used 744 Rixdollars and was paid the balance 96 Rixdollars on 26th July 1825. sup. Chapter III. p. 72.
2. C.O. 49/22: R.W. Hay to Mrs. Erith, 13th March 1830.
3. sup. Chapter III. p. 72.
4. C.O. 48/148: Mrs. Erith to Sir George Murray, 19th March 1830.
5. ibid.
6. ibid. 25th March 1830.

an interview would clarify issues, and that evidence from the Commissioners report showed that statements made by Civil Servants should be treated with suspicion.<sup>1</sup>

Sir George Murray replied that he did not see the need for an interview, since Mrs. Erith could always communicate with him by letter.<sup>2</sup> This did not satisfy Mrs. Erith, who pointed out that "had your multifarious engagements Sir, allowed You to examine the documents you were pleased to call for, the "necessity" of a subsequent discussion might have been avoided, but as I have to contend with wilful misinterpretation on the part of those to whom Secretary Sir George Murray was pleased to instruct the examination of the documents, no means appears (to my unenlightened understanding) so conclusive as a discussion honoured by the presence of Secretary Sir George Murray."<sup>3</sup>

The pertinacity of Mrs. Erith is truly remarkable. The same demand was re-iterated both on the 12th of April and on the 21st April.<sup>4</sup> The former letter was acknowledged: the latter was ignored despite a further protest from her on May 12th.<sup>5</sup> On May 25th Mrs. Erith discovered a new pretext for approaching the Colonial Office. She wrote to the Colonial Office stating that she had "received a communication from the Commissariat Office of the arrival of Mr. Commissary Hewitson in England. I therefore respectfully entreat that the discussion may now be permitted which I have so repeatedly solicited when ignorant of his absence."<sup>6</sup>

1. C.O. 48/148: Mrs. Erith to Sir George Murray, 2nd April 1830.
2. C.O. 49/22: R.W. Hay to Mrs. Erith, 8th April 1830.
3. C.O. 48/148: Mrs. Erith to Sir George Murray, 12th April 1830.
4. ibid. 12th and 21st April 1830.
5. ibid. 12th May 1830.
6. ibid. 25th May 1830.

The Colonial Office did not immediately reply to Mrs. Erith, but on June 9th, Sir George Murray replied and stated that he saw "no necessity for any further discussion of your husband's case, but that he will pay every attention to any written explanation which Mr. Hewitson may think proper to furnish of your husband's transactions with the Commissariat at the Cape."<sup>1</sup> Mrs. Erith's last remaining hope was however dashed, on the same day. Mr. Hewitson informed her that he had no means of helping her and advised her to write to the Commissariat Department in Cape Town.<sup>2</sup>

If Mrs. Erith was not yet aware that the Colonial Office was adamant, the events of the following month brought this home to her. Between June 16th and July 14th she wrote three letters to the Colonial Office, none of which were answered.<sup>3</sup> This was in accordance with the Secretary's instructions, as outlined in his letter of 9th June 1830.<sup>4</sup> Mrs. Erith turned from subtlety to castigation. On July 14th she wrote. "Sir, Permit me respectfully to remind you that I have made four successive applications for replies and no answers have been returned - a marked and unmerited inattention which policy may dictate, but Justice cannot sanction nor you, Sir, approve of ... It cannot be more repugnant to your wishesto enter upon this point than it is uncongenial, distressing and harassing to my feeling to be unceasingly obliged to force a controversial subject upon your notice." She concluded the letter by pointedly remarking "Soliciting Sir, Your early reply."<sup>5</sup>

That very day, the Colonial Office dispatched its

1. C.O. 49/22: R.W. Hay to Mrs. Erith, 9th July 1830.
2. C.O. 48/148: J. Hewitson to Mrs. Erith, 9th July 1830.
3. ibid. Mrs. Erith to Sir George Murray, 30th June, 8th and 14th July 1830.
4. C.O. 49/22: R.W. Hay to Mrs. Erith, 9th June 1830 and supra.
5. C.O. 48/148: Mrs. Erith to Sir George Murray, 14th July 1830.

Parthian shot. In reply to her letter of June 30th, the Colonial Office stated that it did not recognise her claim on the Commissariat Department, to which Department however, she was welcome to address herself.<sup>1</sup> This Mrs. Erith did not do, but continued to bombard the Colonial Office with letters dated July 14th, July 17th and July 25th.<sup>2</sup> All three were answered in a single curt note re-iterating the official view that the matter was closed.<sup>3</sup> Jane Erith had the last word. Her letter of 29th July rang with righteous indignation. She wrote that her "Applications to you (Sir George Murray) have invariably been respectful. The letter received by me this morning of which I transmit you a copy as a deliberate insult to an already oppressed individual ..." She concluded by stating that in the absence of replies from the Colonial Office she begged "to decline all further correspondence with the Colonial Department."<sup>4</sup> It was a decision which, no doubt, was met with great relief by the members of that Department.

After nine months of renewed argument with the Colonial Office, Mrs. Erith outwardly accepted defeat. But she remained firmly convinced of the justness of her case. It was this in conjunction with her stubbornness, which had prolonged the issue with the Colonial Office. It was this combination also which was to drive Mrs. Erith to seek other means by which to pursue her case.

The July revolution in France threatened the precarious balance of forces both in France and in Europe. There was

1. C.O. 49/22: R.W. Hay to Mrs. Erith, 14th July 1830.
2. C.O. 48/148: Mrs. Erith to Sir George Murray 14th; 17th; 25th July 1830.
3. C.O. 49/22: R.W. Hay to Mrs. Erith, 26th July 1830.
4. C.O. 48/148: Mrs. Erith to Sir George Murray, 29th July 1830.

excitement and expectancy everywhere in Britain and Wellington was by no means certain whether he could hold Parliament when it should meet. This was the texture of affairs when Mrs. Erith, wife of a Kentish freeman, decided to exercise her right as a subject to petition the King.<sup>1</sup>

In October 1830 Mrs. Erith addressed a Petition to "The King's Most Excellent Majesty" in which she outlined her whole case and her claims. It was a long and very detailed petition. She concentrated on three aspects of her case. In the first instance she dealt with the events which led up to the decision made by Huskisson. To lend weight to her argument she quoted from the letters written at that time. She tried to show that Huskisson had granted them not only land but also "further assistance", so that they might establish themselves on that land. Mrs. Erith then went on to discuss her dispute with Sir Lowry Cole. Here again she quoted from letters written at the time to substantiate her argument. As in the above dispute the core of the argument lay in the different interpretations held by Mrs. Erith and the Colonial Office of Huskisson's letter of 20th November 1827. Finally she concluded the Petition with a discussion of her claim against the Commissariat Department.<sup>2</sup>

The procedures through which the petition passed throws an interesting light upon the workings of the government at that time. The petition was forwarded directly to the King. His Majesty, instructed his private secretary, Sir Herbert Taylor to refer the matter to the Colonial Office, and instructed Sir George Murray to investigate the case.<sup>3</sup> The procedure adopted appears to have been for the King to re-direct

1. Williams, E.N. The Eighteenth Century Constitution, p. 28.

2. C.O. 48/148: Petition of Mrs. Erith to His Majesty the King, pp. 317-337.

3. ibid. Mrs. Erith to R.W. Hay, 30th October 1830.

the petition to the relevant department for their attention. Since Wellington's ministry was still in office the result could have been foreseen. Sir George Murray notified Mrs. Erith that her petition had been handed to him, but as he could not find anything new in it, he could not revise his previous decision.<sup>1</sup> Mrs. Erith's effort then, ingenious though it was, did not meet with success.

Mrs. Erith was still not prepared to admit defeat. Her resourcefulness had not been expended. By April 1831 she had managed to convince a Member of Parliament both of the justness of her case and the fact that he should take up the case on her behalf. On 27th April 1831, Mrs. Erith, then domiciled in Peckham, wrote to Mr. J.I. Briscoe, M.P. for the County of Surrey, Eastern Division.<sup>2</sup> "I beg to apologise for intruding upon your momentous engagements at this important crisis but from the kind interest you have manifested on my behalf, I trust your goodness will pardon my taking the liberty of submitting to you a few ideas which have pressed upon my mind since I had the honour of an interview with you upon the subject of my unfortunate case."<sup>3</sup> April 1831 was indeed an exceptionally busy period for Mr. Briscoe. In that month the 1st Reform Bill had been defeated in Parliament.<sup>4</sup> Parliament had been dissolved and a General Election called for May. Briscoe was thus in the midst of preparing for this election when Mrs. Erith's letter arrived. Nevertheless on May 13th taking "the first opportunity on his return to London ..." Mr. Briscoe wrote to the Colonial Office asking "Lord Goderich to give a candid

1. C.O. 49/24: R.W. May to Mrs. Erith, 28th October 1830.

2. Hansard, 3rd Series, Vol. LI, 1830-1831.

3. C.O. 48/148: Mrs. Erith to J. Briscoe, 27th April 1831.

4. Woodward, E.L. The Age of Reform, p. 82.

consideration to Mrs. Erith's case."<sup>1</sup> Mr. Briscoe also enclosed Mrs. Erith's letter of the 27th April.

Lord Goderich, had succeeded Sir George Murray as Secretary of State for War and Colonies in November 1830 when Earl Grey formed his Cabinet. Goderich was an experienced and able Minister of State and one who in 1827, had to deal briefly with the Erith case.<sup>2</sup> He could also call upon Robert Hay, who was still the Permanent Under-Secretary, to advise him. It is not surprising then that in the two letters dated the 17th and 18th May, Lord Goderich was unsympathetic to Mr. Briscoe's appeal. In the first place he, quite correctly, pointed out that Mrs. Erith had already been given compensation. In the second place he stated that he was "at a loss to understand upon what grounds she (Mrs. Erith) has now brought forward a claim upon the Government for £500 which seems wholly to be for expenses of her visit to this country which was a voluntary act of her own..."<sup>3</sup>

Two days later Briscoe replied in a forcefully argued letter. He outlined three grievances which he considered had not been satisfactorily settled. Firstly the Erith's had received no compensation for their house which had been burnt down. Secondly Mr. Huskisson's pledge had not been fulfilled. Thirdly the third instalment of Erith's deposit money had not been paid.<sup>4</sup> Mr. Briscoe continued that he did not need to "refer to the illegal detention of Mr. Erith and his family for three years by the late Lord Charles Somerset, nor to other acts of injury and oppression stated to have been inflicted at the Cape. But I have no hesitation in repeating

1. C.O. 48/148: J. Briscoe to Colonial Office, 13th May 1831.

2. sup. Chapter IV. pp. 92-99.

3. C.O. 48/148: Colonial Office to J. Briscoe, 17th and 18th May 1831.

4. ibid. J. Briscoe to Colonial Office, 20th May 1831.

the conviction I have before expressed to your Lordship, that Mrs. Erith's case appears to be justly entitled to compensation from the Colonial Department."<sup>1</sup> He requested Lord Goderich "to acquaint (him) if (he was) to abandon on the part of Mrs. Erith all hope of any relief from your Lordship."<sup>2</sup> If this was not forthcoming, Briscoe said "No course (would) then remain to (him) but to lay the whole statement of this poor woman and her family before Parliament, and the country."<sup>3</sup>

Whether spurred on by Mr. Briscoe's threat or not, Lord Goderich nevertheless gave the letter considerable attention. In a long, closely argued letter Lord Goderich explained the attitude of the Colonial Office towards the complaints of the Eriths, as laid out in Mr. Briscoe's letter.<sup>4</sup> As regards the first complaint viz. "the burning down of Mr. Erith's House . . .," Lord Goderich presumed that Mr. Briscoe was unaware "that this house or tenement in question had been built by Mr. Erith upon land belonging to another person: and I observe by the official report which is now before me that the house was not destroyed until after repeated warnings."<sup>5</sup> Goderich continued that "with regard to acts of injury and oppression which are neither enunciated nor defined you cannot of course expect me to enter into any discussion..." He then went on to point out that Erith was held legally in terms of the Colonial Law. Erith's complaint that he had not been paid the 3rd Instalment of his deposit, Lord Goderich stated was "altogether unfounded." He correctly indicated that according to "a copy of Mr. Erith's

1. C.O. 48/148: J. Briscoe to Colonial Office, 20th May 1831.
2. ibid.
3. ibid.
4. ibid. Colonial Office to J. Briscoe, 4th June 1831.
5. ibid.

account with the Commissariat Department at the Cape ... it distinctly appears that the deposit money lodged by that person in England, was fully repaid to him in cash and in supplies." Indeed Erith had even signed a receipt for a small sum of money "in full settlement of the account."<sup>1</sup>

Finally Lord Goderich dealt with Erith's complaint that Huskisson's pledge had not been fulfilled. It was again apparent that Mrs. Erith persisted, in the face of repeated corrections by the Colonial Office, in interpreting Huskisson's letter of the 20th November 1827 differently from the Colonial Office. Goderich clearly showed what the Colonial Office had meant by that letter. Huskisson "was not indisposed to assist him (Erith) to a certain extent 'in the prosecution of that undertaking'." It appeared to Goderich "that the assistance so held out to Mr. Erith was very ample. He was promised a passage to the Cape: and he and his family were conveyed there accordingly. He was promised compensation for the value of his lost cattle: and he has received it all, as an indulgence not as a right." He also pointed out that Erith was to expect only a moderate grant of land and to expect no further assistance. Goderich concluded the letter by observing that he left it to Mr. Briscoe "to adopt such further course in this case as you may think advisable."<sup>2</sup>

It was fully six months before Mr. Briscoe replied. He expressed his regret about the delay but explained "that public business has not allowed me to devote an earlier consideration to the various and complicated documents connected with this case." On returning to his "Parliamentary Duties in London" Briscoe lost "no time in again requesting of your Lordship's attention to the memorial of Mrs. Erith."<sup>3</sup> It

1. C.O. 48/148: Colonial Office to J. Briscoe, 4th June 1831.
2. ibid.
3. ibid. J. Briscoe to Lord Goderich, 17th January 1832.

was hardly surprising that Mr. Briscoe found that his parliamentary duties kept him so busy. For it was just at this time that the Reform Bill crisis was raging. The second draft of the Reform Bill had been debated in the Commons continually for three months. Only in September was the Bill finally passed by that House.<sup>1</sup> On October 8th, however, the Bill was defeated in the House of Lords. Parliament was prorogued to enable the Ministry to consider further amendments to the Bill. In December 1831 the Reform Bill was introduced into Parliament for a third time.<sup>2</sup> The importance of the Reform Bill was such that it was essential for Members of Parliament to attend the sessions as often as possible. This was over and above their ordinary parliamentary duties. Under these circumstances it was understandable that Mr. Briscoe found it difficult to find time to pursue Mr. Erith's case.

The letter of 17th January 1832 shows clearly that Mr. Briscoe had been to some considerable trouble to present Erith's case once more to the Colonial Office.<sup>3</sup> Briscoe retraced the now familiar ground of Erith's claims. He dealt firstly with the burning down of Erith's house. He showed that Erith's house was built on his own land. In support of his argument he appended seven letters which all proved this point. He stressed also that seventy-three settlers had also vouched for this very point. Secondly, Briscoe dealt with the refusal by the authorities of a Colonial Pass to Erith. His argument, based on the delay of the Colonial Government's answers to Erith's letters, was irrelevant. There was no doubt that Erith's Colonial Pass

1. Woodward, E.L. The Age of Reform, p. 83.

2. ibid. p. 84.

3. C.O. 48/148: J. Briscoe to Lord Goderich, 17th January 1832.

was withheld legally by the Colonial authorities. Thirdly Briscoe dealt with Erith's claims against the Commissariat Department. Briscoe shifted his line of attack, away from the non-payment of the 3rd instalment of Erith's deposit, towards the injustice of Captain Trappes having forced Erith to provide rations for members of his party, when they were employed by the Government. Finally, Briscoe dealt with Huskisson's "Pledge". Despite the repeatedly explicit explanations given by the Colonial Office, Mr. J. Briscoe stubbornly supported the construction placed upon it by Mrs. Erith.<sup>1</sup>

Before the Colonial Office formulated a reply, Lord Goderich wisely called upon Colonel W. Colebrooke to advise him on Erith's case. He was asked to comment on Erith's claims relating to the burning of his house and to the Commissariat Department.<sup>2</sup> Colonel Colebrooke, who had, almost a decade earlier, been sent to the Cape with Mr. J.T. Bigge, as a Commissioner of Enquiry, replied on the 24th January. He stated that as a Commissioner he had "no authority to look into personal matters," nevertheless he had visited certain individual settlers one of whom had been James Erith. Colonel Colebrooke showed that, when Edward Damant left his part of the location called Waaye Plaats, John Dixon "availed himself of the occasion to extend his boundary as alleged with the sanction of Captain Trappes the Deputy Landdrost."<sup>3</sup> As has been seen this sanction had not been given to Dixon.<sup>4</sup> Colonel Colebrooke went on to show

1. C.O. 48/148: J. Briscoe to Lord Goderich, 17th January 1832.
2. *ibid.* Lord Goderich to Col. Colebrooke, 20th January 1832.
3. *ibid.* Col. Colebrooke to R.W. Hay, 24th January 1832.
4. *sup.* Chapter III. p. 61.

that Erith did have real grievances. He said that "the removal of Mr. Erith from his original location was a grievance, to which he was subjected in common with many other settlers and which was injurious to them, nor would it appear to have been just that the boundary of the location to which he was removed was curtailed." Col. Colebrooke concluded the letter by dealing with Erith's claims against the Commissariat Department. He observed that in regards "the circumstances which led to the dissolution of some of the parties of Emigrant Settlers, Mr. Erith should not have been charged for the rations of his servants, when they were employed on public works by the Deputy Landdrost. The fact that they were so was admitted by Captain Trappes."<sup>1</sup>

This careful and forthright analysis forced the Colonial Office to re-consider Erith's claims. Early in February Lord Goderich again wrote to Col. Colebrooke asking him whether it would be feasible for Erith's case to be re-tried in the Cape.<sup>2</sup> On 11th February Colebrooke replied that this plan would be impractical, not the least objection being the fact that Captain Trappes was dead. Instead, he suggested that the case should be handed over for arbitration.<sup>3</sup> It was a plan which appealed to Lord Goderich.

On 24th February 1832 Lord Goderich replied to Mr. Briscoe's letter of the 17th January. He stated firstly that he was satisfied that Erith's claims re his Colonial Pass and Huskisson's "Pledge" were invalid. He went on to state that he was, however, "ready to allow that there is one part

1. C.O. 48/148: Col. Colebrooke to R.W. Hay, 24th January 1832.
2. ibid. 11th February 1832.
3. ibid.

of this case into which it appears to me desirable that further enquiry should be instituted, in justice to Mr. Erith himself as well as the other person concerned. I allude to the circumstances under which his house on Waaye Plaats Lands was destroyed." Lord Goderich pointed out, quite correctly, that doubt existed as to the boundary between the locations of Dixon and Erith. He expressed himself willing to refer "the point touching the destruction of the house for arbitration in the Colony: and if there should appear upon enquiry to be any fair reason for ..." showing that his case is right, he will be given compensation.<sup>1</sup> As regards the Commissariat Department Lord Goderich was willing to review the question of the supplies which Trappes had handed out under Erith's name. The change in the Colonial Office's attitude was further emphasised. Lord Goderich, now offered Erith land in the Ceded Territory since it was only in this area, "where there are lands to be disposed of."<sup>2</sup>

Mr. Briscoe proved to be a tenacious champion. More important, he was more expert as correspondent than Mrs. Erith. In his reply, dated March 26th 1832, Briscoe expressed his "reluctance in continuing to occupy your (Lord Goderich's) time with a case which presses most inconveniently on my own." However he could not "abandon my sense of duty to a distressed and defenceless female, who has entrusted her case in my hands." He would "not unnecessarily trespass on your patience by retracing the circumstances of this case from the beginning - respecting what appear to me to be erroneous inferences and deductions from uncontroverted facts; because I now wish to submit a proposal on the part of Mrs. Erith, that the whole

1. C.O. 48/148: Lord Goderich to J. Briscoe, 24th February 1832.

2. ibid.

shall be deferred to arbitration in this country, and I am authorised to say that she will abide by the result."<sup>1</sup>

The Colonial Office was placed in a difficult position. Lord Goderich had admitted that on two particular points, Erith's case warranted further investigation and had even gone so far as to offer to submit these points to arbitration. On the one hand if Lord Goderich agreed to accept Mr. Briscoe's proposals, it could be construed as a defeat for the Colonial Office. On the other hand if Goderich refused to submit the whole case to arbitration, it could be reasonably assumed that this decision would not be accepted by Mr. Briscoe. The result would be that this seemingly interminable case would still not be settled. On March 31st Lord Goderich replied that "although his (Briscoe's) proposition involved more than" he thought necessary he was "willing to submit the whole to arbitration." He suggested that the most suitable arbiters would be Henry Ellis, a former Deputy Colonial Secretary to the Cape Government, and Colonel W. Colebrooke. He was also careful to state that should Mrs. Erith accept this plan, their decision was to be final.<sup>2</sup>

Mr. Briscoe's reply was delayed until early in May. This was no doubt because of the heavy parliamentary duties of Briscoe, in the closing phases of the Reform Bill crisis. On May 2nd, on behalf of Mrs. Erith he accepted the Colonial Office offer of arbitration. Mrs. Erith, a stickler to the end, wished to have Mr. Briscoe and Colonel Colebrooke as the arbiters: the assistance of a Mr. Baxton would be sought should a dispute arise between Briscoe and Colebrooke.<sup>3</sup> This

1. C.O. 48/148: Lord Goderich to J. Briscoe, 26th March 1832.
2. ibid. 31st March 1832.
3. ibid. J. Briscoe to Lord Goderich, 2nd May 1832.

arrangement was accepted by the Colonial Office, three days later.<sup>1</sup>

The sustained crisis over the Reform Bill ended only on June 4th 1832. This as well as the complex details of the Erith file, accounts for the final delay before the arbitration award was forwarded by Briscoe and Colebrooke to Lord Goderich on August 1st.<sup>2</sup>

Mrs. Erith's full claim had amounted to £2,887 6sh. This was set out in detail. For loss incurred by the destruction of their house Mrs. Erith claimed £558 17sh. This was despite the fact that previously the Eriths had only valued their house at £150.<sup>3</sup> She also claimed £166 2sh. for the loss of cattle, despite the fact that they had already received compensation for their cattle. Mrs. Erith claimed £1,871 14sh. 4d. for the loss incurred by losing their indentured servants. £41. 10sh. was claimed from the Commissariat and finally for non-fulfilment of Huskisson's pledge Mrs. Erith claimed £249 2sh. 8d. in compensation.<sup>4</sup>

Messrs. Colebrooke and Briscoe thoroughly investigated the five claims. They held "several conferences" with Mrs. Erith, to which she brought the papers pertaining to the claims. Colonel Colebrooke and J. Briscoe found, however, that "in regard to the three first heads of the foregoing claims, it is difficult in this country, and after so great a lapse of time to determine precisely the amount which might have been justly awarded in compensation for the losses alleged to have been incurred and where the Government might

1. C.O. 48/148: Lord Goderich to J. Briscoe, 5th May 1832.

2. ibid. Col. Colebrooke and J. Briscoe to Lord Goderich,  
1st August 1832.

3. ibid. J. Briscoe to Lord Goderich, 17th January 1832.

4. ibid. Mrs. Erith to Lords of the Treasury, 4th September  
1832.

be considered responsible for them."<sup>1</sup> They decided "therefore taking into consideration the whole Circumstances of the case both as connected with the original claim, its subsequent arrangement by Mr. Huskisson, the delay in fulfilling part of that arrangement and the loss and expense stated to have been suffered by the parties during the last three years, have in order to bring the matter to a final settlement agreed to award the sum of five hundred pounds to the claimants, the one half payable to Mrs. Erith to enable her to return to the Cape, and the other half to Mr. Erith, on their acceptance of these sums as a full discharge of the Government from all further demands." The arbiters also recommended "that the premises now occupied by Mr. Erith at Cape Town should if possible be continued to him for a term rent free."<sup>2</sup>

Colonel Colebrooke in a private letter to Lord Goderich expressed his feelings in regard to the award. "In forwarding to your Lordship with Mr. Briscoe our award in the case of Mrs. Erith I think it necessary to state my opinion that the sum proposed to be given to the parties should be awarded to them as a gratuity and not in recognition of their claims - In recommending that the premises occupied by Mr. Erith in Cape Town may be continued to him for a term rent free, I beg to observe that I have subscribed to it on the understanding that the sum of £500 sterling is awarded as a full discharge of the Government from all demands without any further concession."<sup>3</sup>

Mrs. Erith true to her character was still not satisfied and although she was bound to accept the award, she did so

1. C.O. 48/148: Colonel Colebrooke and J. Briscoe to Lord Goderich, 1st August 1832.

2. ibid.

3. ibid. Col. Colebrooke to Lord Goderich, 1st August 1832.

with ill-grace. On September 4th she formally accepted "on behalf of (her) husband and (herself) ... the award of Colonel Colebrooke and Mr. Briscoe in full liquidation of every claim whatever on the government for injuries and losses sustained by us as Settlers at the Cape of Good Hope - however inadequate I consider the award to be for the amount of the losses and injuries which were inflicted on my husband and his family."<sup>1</sup>

Two years, ten months then after Mrs. Erith arrived in England again, compensation was finally given to her. In all the Eriths had spent some twelve years in constant struggle to obtain compensation. A cursory glance might suggest that Charles Buller's classic description of the Colonial Office "prolonging the tortures of the unhappy victim, who bandied about from Colony to England, from Secretary to Secretary, from Under-Secretary to Under-Secretary, from clerk to clerk ..." was true.<sup>2</sup> The history of James Erith's case does not bear out this judgement of the Colonial Office. To the contrary the case shows the Office in a more favourable light. Erith's letters were answered promptly. Invariably the Office, whether it was the Permanent Under-Secretary or the Secretary of State himself, studied his claims and the relevant documents. The most striking difference from Buller's judgement, which the case reveals, was the rôle played by the Secretary of State. Charles Buller maintained that the Secretary of State was dependent on the "permanent members of the office" - Mr. Mothercountry. Erith's case was however, handled

1. C.O. 48/148: Mrs. Erith to Lords of the Treasury, 4th September 1832.
2. Wrong, E.M. Charles Buller and Responsible Government, p. 160.

personally by each successive Secretary of State between 1826 and 1832. Indeed it was their personal intervention which secured the Eriths compensation, both in 1827 and again in 1832.

This does not mean that the Colonial Office was above reproach. There can be little doubt that eventual success for the Eriths was achieved only because of their incredible stubbornness, persistence and ingenuity. This perhaps, after all, was the dominating factor in their struggle for compensation. The Erith case insignificant in terms of the broader issues of Colonial affairs, does throw light on the internal structure and working of the Colonial Office. This light supports the theses of both Young and Beaglehole that the Colonial Office in the early nineteenth century was a sound and efficient instrument of government, progressively improving its *modus operandi*.

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- |               |   |
|---------------|---|
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| C.O. 48/57    | Letters: Settlers (1821).   |
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APPENDIX A

I. PRIME MINISTER AND FIRST LORD OF THE TREASURY

1783 - 1834.

William Pitt	December 1783 - February 1801.
Henry Addington	February 1801 - January 1804.
William Pitt	January 1804 - January 1806.
Lord Grenville	January 1806 - March 1807.
Duke of Portland	March 1807 - September 1809.
Spencer Perceval	September 1809 - May 1812.
Earl of Liverpool	June 1812 - April 1827.
George Canning	April 1827 - August 1827.
Viscount Goderich	August 1827 - January 1828.
Duke of Wellington	January 1828 - November 1830.
Earl Grey	November 1830 - July 1834.

II. OFFICE OF THE THIRD SECRETARY OF STATE

1794 - 1834.

<u>SECRETARIES OF STATE</u>		<u>UNDER-SECRETARIES</u>	
Henry Dundas	July 1794-Mar.1801	Even Nepean	July 1794-Mar.1795
Lord Hobart	-May 1804	Wm. Huskisson	-May 1801
Lord Camden	-Jul.1805	John Sullivan	-May 1804
Lord Castlereagh	-Feb.1806	Ed. Cooke	-Feb.1806
Wm. Windham	-Mar.1807	Sir Geo. Shea	-Mar.1807
		Sir James Cockburn	Nov.1806 -Mar.1807
Lord Castlereagh	-Oct.1809	Ed. Cooke	-Oct.1809
		Ch. Stewart	Mar.1807 -Ap. 1809
		Fred Robinson	Mar.1807 -Oct.1809
Lord Liverpool	-June 1812	Ed. Banbury	-Jul.1816
		C. Jenkinson	Oct.1807-Jan.1810
		Robert Peel	-Aug.1812
Lord Bathurst	-Apr.1827	Henry Goulbourn	-Dec.1821
		R.J.Wilmot-Horton <sup>1</sup>	-Jan.1828
		<u>Robert William Hay</u>	Jul.1825 - 1836
Lord Goderich	-Sep.1827	E.G. Stanley	Oct.1827-Feb.1828
Wm. Huskisson	-May.1828	Ld. Francis Levison Gower	-May 1828
Sir George Murray	-Nov.1830	Horace Twiss	-Nov.1830
Lord Goderich	-Mar.1833		
E.G. Stanley	-June 1834		

1. R.W. Hay appointed as the first Permanent Under-Secretary of the Office.

APPENDIX B

SHORT BIBLIOGRAPHICAL NOTES ON IMPORTANT MEMBERS  
OF COLONIAL ADMINISTRATION 1809 - 1832.

1. Henry, 3rd Earl Bathurst (1762-1834).

First entered office as a Lord of the Admiralty in 1783; served in minor dignified offices; a close associate and confidant of William Pitt; 1804-1807 Master of the Mint; 1807-1812 entered the Cabinet as President of the Board of Trade; 1809 Foreign Secretary from October - December; 1812-1827 Third Secretary of State for War and Colonies. Resigned on Canning becoming Prime Minister. 1828-1830 Lord President of Council in Wellington's Cabinet. A High Tory, and a close confidant and associate of Lord Liverpool, the Duke of Wellington and Earl of Westmoreland. A senior member of Liverpool's Cabinet.

2. Viscount Goderich (1782-1859).

Born Frederick Robinson; cr. Viscount Goderich 1827 and Earl of Ripon 1833. Entered Parliament in 1806 as a Tory. Entered the Cabinet as President of the Board of Trade and Treasurer of the Navy in 1818-1823; 1823-1827 Chancellor of the Exchequer; April 1827 - August 1827 Third Secretary of State for War and Colonies; Prime Minister August 1827 - January 1828. 1830-1833 Third Secretary of State for War and Colonies. 1833-1834 Lord Privy Seal. 1841-1843 President of the Board of Trade. 1843-1846 President of the Board of Control. First a Tory, then a Canningite; served in Lord Grey's Whig 'Reform Cabinet' and ended his political career serving under Sir Robert Peel. He was a good Minister, though not capable of being a Prime Minister. He was a man of varied and wide interests. He was a Commissioner for Chelsea Hospital; President of the Geographical Society (1830); President of the Raleigh Club and President of the Royal Society of Literature (1834).

3. Henry Goulbourn (1784-1856).

Entered Parliament as a Tory in 1808. 1810-1812 Under-Secretary of the Home Office. 1812-1821 Under-Secretary of the Department for War and Colonies. December 1821 appointed to the Privy Council as well as Chief Secretary to the Lord Lieutenant of Ireland. 1828-1830 Chancellor of the Exchequer in Wellington's Cabinet. December 1834 - April 1835 Home Secretary in Peel's first Cabinet. 1841-1846 Chancellor of the Exchequer in Peel's second Cabinet. He was a successful Chancellor of the Exchequer, and was much respected by all parties. He was an intimate friend of Sir Robert Peel and staunch supporter of his policies.

4. William Huskisson (1770-1830).

Lived in France 1783-1792; Entered Parliament in 1796; 1795-1801 Under-Secretary at War. 1804-1805 and 1807-1809 Secretary to the Treasury resigning due to the resignation of Canning, his close friend. 1814 Head of the Woods and Forests Department. 1811-1823 Colonial Agent for Ceylon.

Appendix B (contd.)

First entered the Cabinet as President of the Board of Trade and Treasurer of the Navy 1823 - August 1827. August 1827 - June 1828 Third Secretary of State for War and Colonies. A follower of Canning and an expert on Commercial and Fiscal matters. A man of great talent.

5. Robert, 2nd Earl of Liverpool (1770-1828).

Born, Robert Banks Jenkinson. cr. Lord Hawkesbury 1803; succeeded to the Earldom on his father's death in 1808. Entered Parliament in 1790 as a Tory. First entered office in 1793 but only entered the Cabinet, as Foreign Secretary 1801-1804; 1804-1806, 1807-1809 Home Secretary. 1809-1812 Third Secretary of State for War and Colonies. 1812-1827 Prime Minister. He held the office of Prime Minister for 15 years - a period exceeded only by Walpole and William Pitt the Younger. He was not an able speaker nor was he an innovator, however his views on economics were considerably in advance of the rank and file of his party. Despite being cold, unfriendly and unsociable he had the assets of being tactful and patient. These in addition to his own modesty and common sense enabled him to keep his highly diverse Cabinet together. He was labelled, somewhat unfairly, by Disraeli as the 'Arch-Mediocrity'.

6. Sir George Murray (1772-1846).

General and Statesman:  
1809-1811 Quarter-Master-General to the Forces in Spain and Portugal, under the Duke of Wellington. 1812 - Sept. 1813 Quarter-Master-General in Ireland. September 1813 - 1814 Quarter-Master-General in Paris. 1815-1817 Chief of Staff of Army of Occupation. 1818-1819 Governor of Edinburgh Castle. 1819-1824 Governor of the Royal Military College at Sandhurst. 1823-1832 Member of Parliament for Perth County. 1825-1828 Commander-in-Chief of the Army in Ireland. May 1828 - 1830 Third Secretary of State for War and Colonies. 1834 re-elected Member of Parliament for Perth County. 1834-1845 Master-General of the Ordnance. A successful soldier, an able minister and a skilful and fluent speaker.

7. J. Wilmot Horton: Sir Robert John (1784-1841).

First entered Parliament in 1818 as Tory M.P. for the borough of Newcastle-under-Lyme. He continued to represent that borough until his retirement from Parliament in July 1830. 1821 - January 1828, Under Secretary of State of the Department of War and Colonies. 1831-1837 Governor and commander-in-chief of the Colony of Ceylon. Knighted 23rd June 1831. He was a man of cultivated tastes, and took a great interest in the political and social questions of the day - particularly those relating to emigration.

8. Lord Charles Henry Somerset (1767-1831).

Second son of the 5th Duke of Beaufort. Served under the Duke of Wellington in the Peninsula Campaign, rising to the rank of Lieutenant-General. Governor of the Colony of the Cape of Good Hope 1814-1826. On leave in the years

Appendix B. (contd.)

1820 and 1821. His second term of office was stormy and controversial, resulting in his returning to England to face his critics in the House of Commons. The case never materialised and with the fall of the Liverpool Government, Lord Charles, a High Tory, resigned his Governorship.

APPENDIX C.

I. THE STAFF OF THE COLONIAL OFFICE IN THE YEARS 1806; 1812; 1814; 1816; 1823; 1824 AND 1825.

<u>PERSONNEL</u>	<u>YEAR</u>						
	<u>1806</u>	<u>1812</u>	<u>1814</u>	<u>1816</u>	<u>1823</u>	<u>1824</u>	<u>1825</u>
SECRETARY OF STATE	1	1	1	1	1	1	1
UNDER-SECRETARY	2	2	2	1	1	1	2
PRIVATE SECRETARY	1	1	1	1	1	1	3
CHIEF CLERK	1	1	1	1	1	1	1
CLERKS	11	12	12	9	9	13	14
MISCELLANEOUS			3	1	1	2	6
TOTAL	16	18	20	14	14	19	27
EXTRA CLERKS	+ 2	+ 6	+ 6			+ 1	

II. VOLUME OF LETTERS HANDLED BY THE COLONIAL OFFICE IN THE YEARS 1806; 1816 AND 1824.

	<u>1806</u>		<u>1816</u>		<u>1824</u>	
	<u>Letters</u>	<u>Pages</u>	<u>Letters</u>	<u>Pages</u>	<u>Letters</u>	<u>Pages</u>
<u>Received:</u>	1,653	8,054	4,487	22,269	7,491	35,836
<u>Despatched:</u>	902	922	3,161	2,957	4,959	5,257

APPENDIX D.<sup>ii</sup>

*Samples  
A+M*

STATISTICS COMPILED FROM THE LETTERS OF  
APPLICATION OF PERSONS DESIROUS OF EMI-  
GRATING TO THE COLONY OF THE CAPE OF  
GOOD HOPE, 1819.

I. GENERAL STATISTICS

	<u>Number of Letters</u>	<u>%</u>	<u>Number of Applicants</u>	<u>%</u>	<u>Number of Emigrants</u>	<u>%</u>
LONDON	149	54%	227	36%	51	8%
REMAINDER OF ENGLAND	67	24%	121	19%	27	4%
IRELAND AND SCOTLAND	33	12%	232	37%	0	-
UNKNOWN	25	10%	50	8%	0	-
TOTAL	274	100%	630	100%	78	100%

II. OCCUPATIONS OF APPLICANTS

<u>OCCUPATIONS</u>	<u>NUMBERS</u>	<u>%</u>
Farmers, labourers	171	28%
Skilled Tradesmen	200	31%
Services	35	7%
Unemployed	15	2%
Professional	11	1%
Unknown	198	31%
TOTAL	630	100%

Appendix D. (contd.)

III. OCCUPATIONS OF APPLICANTS : DIVIDED INTO AREAS

<u>OCCUPATIONS</u>	<u>AREA</u>							
	<u>LONDON</u>		<u>REMAINDER OF ENGLAND</u>		<u>IRELAND &amp; SCOTLAND</u>		<u>UNKNOWN</u>	
	<u>No:</u>	<u>%</u>	<u>No:</u>	<u>%</u>	<u>No:</u>	<u>%</u>	<u>No:</u>	<u>%</u>
Farmers, Labourers	91	40	39	32	36	14	5	10
Skilled Tradesmen	86	37	43	35	57	24	14	28
Services	13	6	13	10	6	3	3	6
Unemployed	11	5	5	4				
Professional	4	1	5	4	2	1		
Unknown	32	13	16	15	131	58	28	56
<b>TOTAL</b>	<b>227</b>		<b>121</b>		<b>232</b>		<b>50</b>	

IV. OCCUPATIONS OF EMIGRANTS

	<u>LONDON</u>	<u>REMAINDER OF ENGLAND</u>	<u>TOTAL</u>	
			<u>No:</u>	<u>%</u>
Farmers, Labourers	15	12	27	36
Skilled Tradesmen	28	10	38	50
Services	1	4	5	6
Professional		1	1	1
Unknown	7		7	7

APPENDIX E.

A LIST OF THE MEMBERS OF J.T. ERITH'S,  
J.H. DIXON'S AND C. DALGAIRNS' PARTIES.

<u>THE PARTY OF JAMES THOMAS ERITH</u>	<u>OCCUPATION</u>
J.T. Erith; + wife and two children	Baker
R. Robertson; + wife and four children	Farmer
J. Kemp; + wife	Farmer
J. Parkhurst	Farmer
J. Ralph	Farmer
T. Dry	Farmer
T. Whittle	Carpenter
R. Hughes	Farmer
G. Shepherd	Farmer
J. Taylor	Farmer

James Erith was domiciled in London, but drew the members of his party from the Isle of Sheppey, Kent.  
Deposit Money paid: £105.

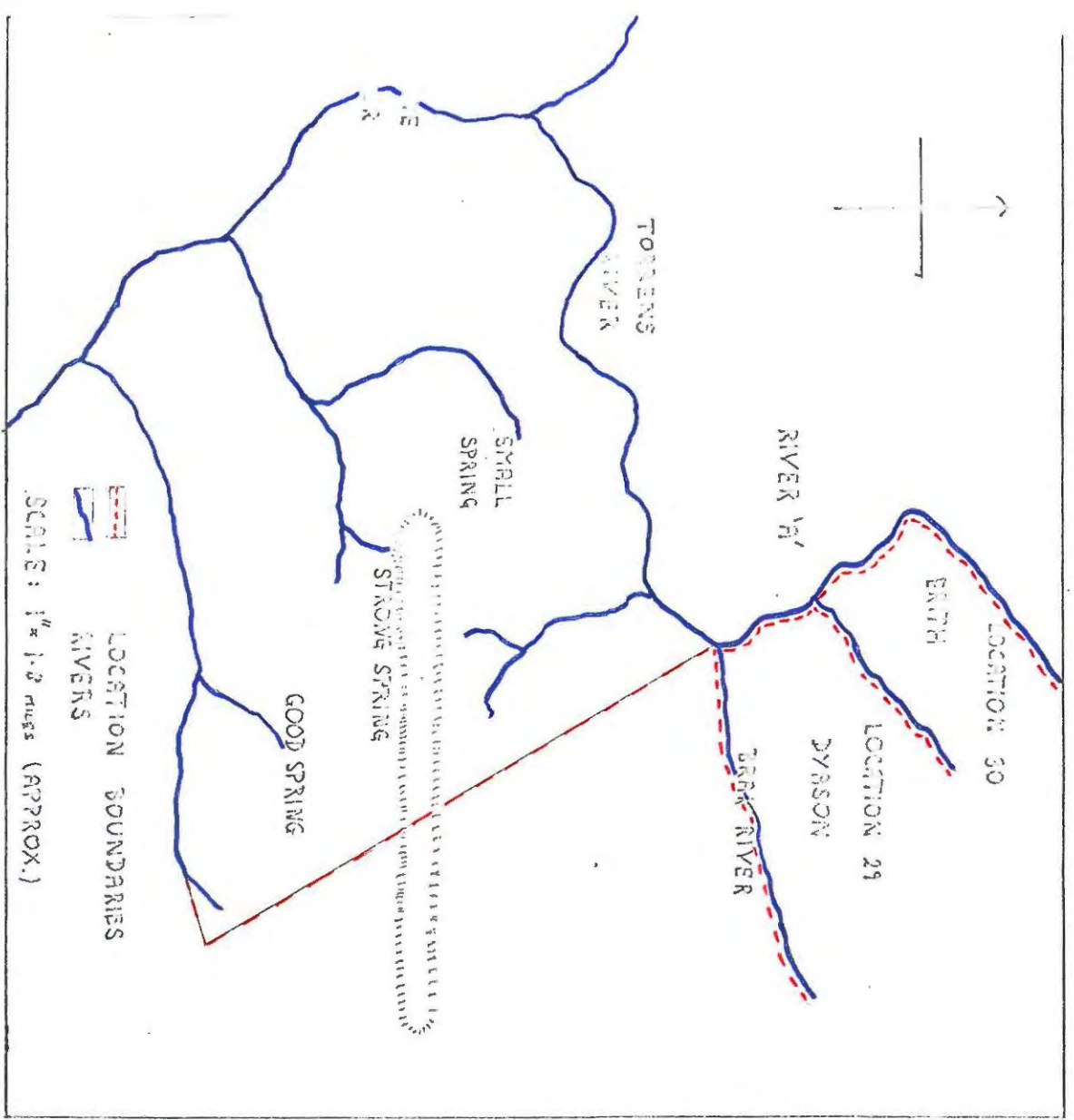
<u>THE PARTY OF JOHN HENRY DIXON</u>	<u>OCCUPATION</u>
J.H. Dixon; + wife and four children	Joiner
R. Webb; + wife and two children	Mason
R. Henman; + wife and two children	Carpenter
H. Fuller; + wife and two children	Carpenter
John Vice; + wife and two children	Gardener
J. Carney; + wife and one child	Sadler
J. Daniel; + wife and one child	Farmer
J. Paxton; + wife and six children	Packer
G. Marsden; + wife and one child	Carpenter
James Vice; + wife and two children	Butcher
J. Wyatt; + wife and four children	Wheelwright

John Dixon, a Londoner, drew his party from the East End of London.  
Deposit Money paid: £130.

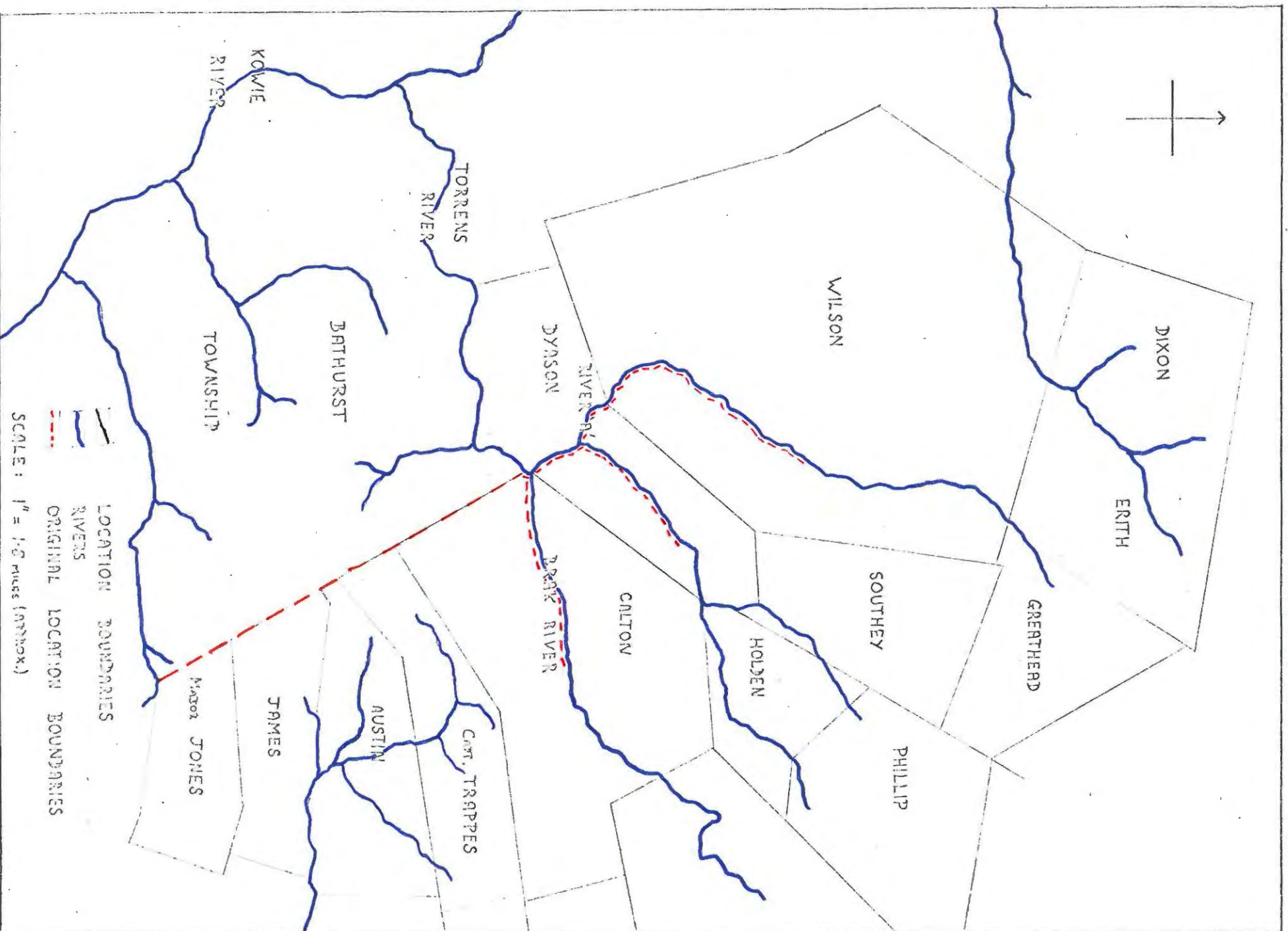
<u>THE PARTY OF CHARLES DALGAIRNS</u>	<u>OCCUPATION</u>
C. Dalgairns; + three children	Farmer
J. Blackmore; + wife and one child	Farmer
W. Williams; + wife and two children	Gardener
W. Matwell; + wife	Labourer
R. Hill; + wife	Carpenter
W. Bailey	Smith
T. Tharratt; + wife and two children	Gardener
S. Denham; + wife and two children	Carpenter
F. Stephenson	Labourer
S. Haw; + wife and one child	Farmer
C. Adcock; + wife and three children	Farmer

Charles Dalgairns, a Londoner drew his party from London.  
Deposit Money paid: £115.

AN ENLARGED SKETCH MAP, DRAWN BY J. KNOBEL  
ILLUSTRATING THE ORIGINAL LOCATION OF JAMES  
ERITH



A SKETCH MAP ILLUSTRATING THE SETTLER  
 LOCATIONS, NORTH-EAST OF BATHURST, AFTER  
 JAMES ERITH HAD BEEN MOVED TO WARRI PLANTZ



GENERAL PLAN  
of the  
SOUTH EASTERN PART  
OF THE DISTRICT OF  
**ALBANY**  
in the  
COLONY OF THE  
CAPE OF GOOD HOPE,

shewing the situation and exact  
boundaries of the Lands allotted  
for the Location of English Set-  
tlers, as also Towns, Military &  
other Establishments.  
Surveyed in the years 1820, 21, 22, by  
(Sig'd) J. Knobel,  
Sworn Surveyor.

