

**W I S E R - The Wits Institute for Social and Economic Research,
University of the Witwatersrand**

Seminar Paper
22 October 2012

**Continuities, contexts and concepts:
Making Sense of Shepstone**

Jeff Guy
jeffersonjohnguy@gmail.com

Locating itself generally within the recent revival of traditionalism in South Africa and developments in colonial and imperial history, and particularly in work on the history of the eastern Cape and Natal in the nineteenth century, this paper examines some of the conclusions drawn about the ideas and the methods of Natal's Secretary for Native Affairs, Theophilus Shepstone. Shepstone, it is argued, was particularly adept at obscuring the historical record, for reasons which are to be found within the history of the times themselves, and the sources consequently need to be examined with special care. More concerned, however, with conceptual misreading than empirical error, the paper moves from considering the way in which certain historical documents have acquired a status that places them beyond criticism, to the imposition of historical narratives on situations to which the sources don't apply, to an argument about the fundamental differences between African and intrusive societies within which particular histories can be constructed.

[Work in progress]

In Clause 211 the 1996 South African Constitution recognises the “institution, status and role of traditional leadership, according to customary law....”, a “traditional

authority that observes a system of customary law” and when applicable the “courts must apply customary law...”.¹ In pursuit of this enabling legislation has been passed² by which bills have been drafted which “affirm the recognition of the traditional justice system and its values” and “enhance customary law”.³ In this way concepts from South Africa’s imperial and colonial past live on, in the post-apartheid present. The words have changed, but only to a degree, and it is still possible to recreate a genealogy of legal terms in which the Constitution’s customary law has evolved from native customs, and traditional authority from chiefs over tribes.

But before accepting the existence of significant historical continuities it should be noted that this is a terminological genealogy, not one that necessarily signifies substantial conceptual links, either as they were applied or perceived. Nonetheless the words remain powerful and suggest to many a further reach into a more distant past – the pre-colonial, pre-conquest, autonomous African past, and the possibility of recreating it in its integrity in a post-colonial era. In this paper I discuss aspects of these apparent links between the present and the past in order to warn against any easy acceptance of substantial connections. I concentrate on the nineteenth century at a time when, it is widely held, significant continuities between the societies of southern Africa and the intrusive colonial ones were put in place by the policies and personality of one man whose influence over this process of social conservation is seen as definitive: Theophilus Shepstone (1817-1893), interpreter, clerk, then Resident Agent on the Cape eastern frontier from 1835 to 1845, then Diplomatic Agent and Secretary for Native Affairs in Natal, from 1846 to 1876.

“The government of their own chiefs is at an end”

Since its publication in 1971 David Welsh’s *The Roots of Segregation* has provided the material for a number of studies of Shepstone’s role in devising and implementing native administration in Natal.⁴ It is not to decry the substantial part that the book has played in the writing of Natal’s history over the last forty years to say that the time has now come to re-examine the sources upon which it is based and the way they have been used. Although following a broad chronological structure Welsh, a political scientist, treated his subject thematically. As a result arguments that Shepstone used in very different historical circumstances were given a misleading continuity and consistency.

For reasons that will be discussed below the records of Shepstone’s life and work have to be particularly carefully situated within the politics and the contingencies of his times. Instead policies attributed to him have been given an exaggerated significance, spreading northwards with the expansion of British colonial rule until, systematised in West Africa by Lugard as Indirect Rule, they were applied widely and retrospectively. In South Africa itself they were revived and by the 1920s were being used to justify and explain racial segregation. Historians have subsequently picked through Shepstone’s writing and speeches to assemble them in what is promoted as the Shepstone System – but without the most careful contextualisation and a wary, critical approach these documents mislead today’s commentators, just as they did his contemporaries – as Shepstone intended.

¹ *The Constitution of the Republic of South Africa 1996.*

² No. 41 of 2003: *Traditional Leadership and Governance Framework Amendment Act, 2003.*

³ Like the contentious *Traditional Courts Bill*, now the subject of considerable debate.

⁴ David Welsh, *The Roots of Segregation. Native Policy in Colonial Natal, 1845- 1910* (Cape Town, 1971).

In 1996 Mahmood Mamdani's influential *Citizen and Subject* placed Natal and Shepstone prominently at the start of its section on Indirect Rule.⁵ The book introduced a new and exhilarating argument for a broad-based African perspective on the study of colonial and contemporary South Africa, but the sheer sweep of Mamdani's approach has exposed gaps and omissions,⁶ and certainly his treatment of the policies attributed to Shepstone in Natal is misleading. Like other analysts who preceded and followed him, Mamdani used an extract, quoted in Welsh, from the 1846-7 Natal Locations Commission of which Shepstone was the leading member, to establish the origins of what became the policy of indirect rule. Welsh believed the passage "provided the basis for many aspects of the system of administration".⁷ Mamdani using the same passage commented "[p]ractical as they were, the commission's recommendations formed the starting point of a decades-long search for an inexpensive but efficient mode of control over natives."⁸ It depicts a colony in which African authority has collapsed and is threatened by anarchy unless urgent action is taken. The original reads

The natives' own laws are superseded; the restraints which they furnished are removed. The government of their own chiefs is at an end; and, although it is a fact that British rule and law have been substituted in their stead, it is not less true that they are almost as inoperative as if they had not been proclaimed, from a want of the necessary representatives and agents to carry them out. Thus, in point of fact, 100,000 natives are at this moment living within a district of Her Majesty's dominions without any law whatsoever actively and efficiently operating amongst them. The danger of such a state of things scarcely needs our pointing out; its consequences are as obvious as any simple circumstance of cause and effect can be, and the longer it exists without the application of remedy, the more difficult will be the ultimate undertaking.⁹

From here the Commission's report went on to recommend a system of administration whereby colonial officials, with the assistance of a council of "principal chiefs", would establish an authority which would recognise, "without violating the stern requirements of justice", "the usages and customs of native law". For this to be carried financial support was urgently necessary. Indeed one has to conclude that it was this request that was particularly influential in determining the presentation's argument and tone – it was not only an assessment, it was also a funding proposal. As an accurate report on the situation in Natal in 1846-7 it is unreliable – as not only internal evidence, but contemporary documents, some of them by Shepstone himself, indicate.¹⁰

The quoted passage, although still widely used, has in fact been the subject of controversy from the time it was published. It caught the attention of the Labour Commission of 1852-3 whose report, a lengthy expression of settler hostility towards

⁵ Mahmood Mamdani, "Chapter Three. Indirect Rule: The Politics of Decentralized Despotism", *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Kampala, Claremont and London) 1996, 62-4, 67,92.

⁶ Martin Legassick, "Review Symposium", *African Sociological Review*, 1, 2 (1997) 124-35; Thomas Spear, "Neo-traditionalism and the limits of invention in British Colonial Africa", *Journal of African History*, 44 (2003), n.23, Frederick Cooper, *Colonialism in Question. Theory, Knowledge, History*, (Berkeley and Los Angeles, 2005) 17-8.

⁷ Welsh, *Roots of Segregation*, 12.

⁸ Mamdani, *Citizen and Subject*, 63.

⁹ BPP: *Correspondence relative to the establishment of the settlement of Natal*. 1848. No.65, Pottinger to Grey, 26 May 1847, enc., Commissioners to West, 30 March 1847, 132.

¹⁰This paper attempts a conceptual rather than an empirical analysis, and it is impossible here for me to cite the sources from which I developed my arguments, or even the details of the arguments themselves. They will however be presented in the published version of a manuscript going at present under the provisional title "The Deceptions of History".

African administration in Natal, used it to claim that, in a situation where chiefly power had been in decline, Shepstone had reinvented it by supporting legislation whose unfortunate practical effect has been to reconstruct chieftainship in its integrity at the head of fully organised tribes within the district, with all their attendant dangers and evils, instead of leaving the Kafir population disunited, and placed, as it ought to be, under the sole control and guidance of the white authorities as the only supreme chiefs.¹¹

Thus, within a few years of Natal's existence as a colony, the question whether a chiefly authority had existed, did exist, or had been invented, was already a contentious topic. The debate has continued, in all its confusion, to this day. In a recent study of Shepstone the passage from the Location Commission's report is quoted again but the phrase "The government of their own chiefs is at an end..." is omitted, perhaps to harmonise the quotation with the statement on the book's preceding page that Shepstone at the time was "ruling through chiefs and customary law."¹²

But rather than tampering with the sources it would be better to admit, and confront, the fact that consistency was not a feature of Shepstone's writing, although his skills in covering this up were considerable. I could break the Locations Commission report down further,¹³ but the point I want to make here is that one is confronted with similar anomalies and contradictions repeatedly when considering the documents produced by Theophilus Shepstone. Time and again close examination of the sources in whose production he played a part are themselves inconsistent – and demand further investigation before they can be used to back this or that theory of indirect rule, or the practices with which it is associated, chiefly rule and customary law. And this was not the result of carelessness or inefficiency, but a tactic that Shepstone used to protect himself and the policies he hoped to advance. Shepstone had unrivalled skills in the use of Nguni languages and his negotiations with Africans were for the most part made without the presence of an independent observer, or even someone capable of recording the proceedings. Our knowledge of what went on in his discussions with Africans depends on Shepstone himself. Moreover, for most of his time in office, Africans did not have the literary skills to access the written records produced in the course of his business with them, while most of his official associates lacked his skills in African languages. Shepstone's success as an administrator depended to a considerable degree on his capacity to keep his oral and his literate audiences separate, with himself, as the man uniquely skilled in both the spoken and the written word, as the sole record-taker and mediator. When, at the end of his term office, Africans acquired the expertise needed to question Shepstone's official record of events, so Shepstone lost much of his authority. But in the early decades, during the setting up of native policy in Natal, we are dependent on Shepstone's very particular version of African opinion if he chose to leave one, and our own skills in interpreting the record he left behind. To accept uncritically what Shepstone wrote is to accept what he wanted us to understand.

In this paper then I start with what should be an obvious point, although it is not a simple one to put into practice: that to understand the system of native administration in

¹¹ TNA: CO879/1/23 Report of the Commission appointed to inquire into the past and present state of the Kafirs in the District of Natal 23 which I refer to as the Labour Commission.

¹² Thomas V. McClendon, *White Chief, Black Lords. Shepstone and the Colonial State in Natal, South Africa, 1845-1878* (Rochester, 2010), 10.

¹³ By asking which parts of it can best be attributed to Shepstone, rather than other members of the commission, and a how it was that a request for urgent financial support was presented without the fundamental requirement – a budget?

Natal, the fundamental tasks of historical research must be applied: close identification and critical examination of the records and their contextualisation. Increasingly however, the promotion of the text and concentration on the discourse, without embedding them in the historical conditions in which they were produced, has had deleterious consequences for historical writing on colonial South Africa. While it is often asserted that history must be written afresh this is done too often at a distance from events, concentrating on the process of invention rather the invention itself, the verb not the noun. In colonial history this is particularly useful – it makes it easier to stay intellectually at home, in places and amongst people with whom you are more familiar, the significance of the remote other asserted certainly, but with a gesture rather than engagement. Examination of invented traditions is useful in doing this, although eventually their actual presence can become so forceful that they have to be confronted as a reality,¹⁴ and with it, perhaps, that testing, eternal, epistemological challenge of deciding just what isn't invented. Even more useful in establishing a distance from history however is the discourse. This allows detailed examination of the way in which concepts are produced and interact without their necessarily being applied in any significant way to historical conditions that lie beyond the discourse itself. Fearful of the event, but safe in the discourse and secure in the text, the subtle examination of the way in which history has been produced can be pursued without attempting to venture onto the unstable, dangerously deceptive, even for some the imaginary, ground on which it happened.

My research into the policies and the personality of Shepstone has persuaded me that not only the man, his policies and their influence, but the concepts conventionally associated with his life and work, have become tired and need regrounding. Interpretations, at times based on misreading, but more often through careless contextualisation, have been repeated so often in the secondary sources, that, like rumour, they have gained not only a life of their own but an intensity as they move further and further away from the situation they assert they are describing.

I therefore agree with Cooper's incisive meditation on some of the weaknesses within the undoubted achievements of the revival in the studies on colonialism in recent decades.¹⁵ He points to the problems that arise from "taking colonialism out of a historical framework" and writing "ahistorical history" by "plucking" those pieces of information from "different times and places" to create apparently consistent historical arguments, "leapfrogging" from one secure point to another, regardless of the abyss that lies between. And to this I can only add my perception of leapfrogging taking place in a lunar atmosphere where the forces of gravity are steadily weakening, and the leaps grow higher and longer, eventually losing all contact with the surface itself.

Indirect rule and new histories

Recent developments in the history of colonialism and imperialism have expanded in quantity and insight to create a inter-disciplinary historiography in which changing vantage points have added real meaning from new perspectives.¹⁶ The reformulation of concepts long considered unassailable, is part of this. The state has been displaced from

¹⁴ Spear, "Neo-traditionalism and the limits of invention".

¹⁵ Cooper, *Colonialism in Question*, 16-24.

¹⁶ I have found particularly useful and informative Stephen Howe's "Introduction" to his *The New Imperial Histories Reader* (London and New York, 2010) together with his brief introductory comments to the selected readings.

its position of explanatory dominance, its constituent parts redefined and re-examined in their interaction, and the sources themselves have been opened not just to the critical study of their content, but their role in the creation of the histories they apparently reflect. The interactions between the colonial and the metropolitan world have been re-asserted by the application of historical insights whose variety is bounded only by the imagination and ability of the historian to perceive and reconstruct them. And what has been called disparagingly the trinity of race, class and gender has been moved from the periphery to the centre of historical studies and refreshed by themselves becoming the subject of historical criticism.

But while such developments in colonial and imperial historiography are important and exciting they also raises difficulties. Some of these are contained in the concepts themselves – which have to be used in the process of their denial – for example, indirect rule, tribes, chiefs, and natives, blacks and whites – words which refer to now rejected histories and unacceptable formulations, from which those who use them want to establish a distance. There are a number of ways to do this. The most obvious is to simultaneously utilise and reject a concept by placing it within quotation marks.¹⁷ Or the negative can be posited – as in the contemporary research project which seeks to examine the un-tribe in southern Africa. Tradition as invention has long been usefully applied to the analysis of what is not, and although “traditional authority” is now integral to the South African legal system, few historians would consider it traditional – and even fewer risk telling us what traditional is or what is traditional. A related tactic is to continue to use the words but to deny the concept. Thus, while it is recognised that the colonial state was never monolithic it is present in the literature, often in essentialized, conflated forms – reified, disagreeing with this and deciding on that.

This becomes confusing and even misleading when, for understandable reasons, the conventional or the commonplace meaning of the phrase no longer fits the situation it is describing. Martin Chanock quite explicitly defines customary law as colonial law,¹⁸ unlike those commentators, academic and political, for whom the concept wanders unsecured, to be applied to either the pre-, the colonial, or the post-colonial worlds. There are comparable problems with indirect rule which has become if not a grand, then certainly a pervasive narrative, which survives because its tellers have lost touch with the historical events to which it is applied. Part of the problem seems to me is its oxymoronic qualities which have recently led a historian to describe the establishment of Queen Adelaide province in 1835 as “the first British attempt to extend direct rule over a large body of formerly independent and definitely hostile Africans.....” who a few pages on become “unwilling participants in an early, incoherent and untheorised version of indirect rule....”¹⁹

But indirect rule itself is made up of component parts, customary law, traditional and invented chieftainship, all of which must be rooted in a historical context if they are not to gain a life of their own as a discourse. And they must also be rooted convincingly.

¹⁷ For a challenging paper on this see Kira Erwin “Theory and practice in the field of race and race thinking: critical reflections from, and for, South Africa and beyond”. Seminar Paper, Centre for Critical Research on Race and Identity, University of KwaZulu-Natal, 6 September 2010.

¹⁸ Martin Chanock, *Law, Custom and Social Order* (Cambridge, 1985), 4.

¹⁹ Alan Lester, *Imperial Networks, Creating identities in nineteenth-century South Africa and Britain* (London and New York, 2001) 81 and 104. I realize that the reversal of terms might apply to a shift in policy between May and September 1835 on the part of local officials, but my point on the inadequacy of the term indirect rule remains.

Thus a recent book is able to create a historical narrative beginning with “the manufacturing and manipulation of chieftaincy... in the late 1840s, in the British colony of Natal”, by Shepstone “[t]he creator of sub-Saharan Africa’s first system of indirect rule....” “to the last defenders of apartheid in the late 1980s”. Although, it continues, “[T]he ideas at the heart of indirect rule came to shape and define the projects of racial segregation and hierarchy in South Africa.” “[t]he connections between the colonial project of the 1840s and the urban battlefields of the 1980s have previously gone unrecognized”.²⁰ The author sets himself the task of “tracing and explicating these connections” - that is to write history – which he does but only at the most superficial level. Connections are traced, their explication however remains unsatisfactory and misleading.

It might be argued that the work of political scientist is not that of the historian and indeed, despite the book’s title, the author is very concerned with using indirect rule in South Africa as a vehicle to explore the idea of legitimacy, and his depiction of contemporary traditionalism is interesting and useful. But to take another example, this time from a volume which one has to assume is intended to be a bench mark in South African historical studies, the recently published *Cambridge History of South Africa*. The title of the Introduction – “The Production of Preindustrial South Africa History” – follows recent trends by keeping a distance from history as it might have happened, and proximity to history as it was produced. This approach is sustained in its reference to Shepstone who

crafted a form of indirect rule²¹ based on intensive historical research, inaugurating what was to become a long administrative interest in African history linked to the maintenance of control over African communities.”²²

A nice idea about the production of pre-colonial history, but it isn’t what happened. Shepstone did produce such a history, but this was a decade after he took office and his policies were already in place. His research was a part of an intense political struggle within the divisions of the colonial state, during which he sought to convince the imperial authorities that, despite the claims of Natal’s settlers, Africans had a demonstrable historical right to land in Natal.

Revealing reticence

According to the most recent study of Shepstone historians have largely ignored the influence his early years at the Cape on the development of his policies in Natal. This is apparently the consequence of the “urge to find ‘the’ source of indirect rule, combined with a lack of attention by the grand theorizers to development and the changeability of ‘native’ policy in colonial Natal” and in so doing they have done a “disservice to our ability to understand Shepstone, his policies, and his actions.”²³ Although historians are named,²⁴ no explicit examples of such sins are proffered. Indeed one has to suspect that they are victims of a not uncommon common feature of recent histories; the setting up of straw women and men – guilty not only of metanarratives and grand theory but the reckless use of the definite article – to frame an argument. And in their

²⁰ J. C. Myers, *Indirect rule in South Africa: tradition, modernity, and the costuming of political power* (Rochester, 2008), ix, 3.

²¹ Indirect rule tends today to always have been in the process of becoming, or evolving, as a form, a type, a version - never the beast itself.

²² Carolyn Hamilton, Bernard K. Mbenga, Robert Ross, “The Production of Preindustrial South African History”, *The Cambridge History of South Africa. Volume 1, From early times to 1885* (Cambridge, 2010), 26.

²³ McClendon, *White Chief, Black Lords*, 25.

²⁴ Welsh, Lambert, Guy, Hamilton.

place we are offered other narratives – including the uselessly broad, unspecific, undefined “civilizing mission” that Shepstone apparently carried with him to Natal.

He was three years old when he arrived with his family in 1820. He grew up on the frontier in a Wesleyan missionary family, and developed the considerable facility in African languages that led to his appointment as interpreter to Lieutenant-Governor D’Urban when he arrived on the frontier in 1835 to attend to the war that had just broken out with the Xhosa. After a bloody and treacherous conflict and the annexation of Xhosa land west of the Kei as Queen Adelaide Province, D’Urban, and his military commander Harry Smith, with the direct assistance of Wesleyan missionaries, made the best they could of a bad situation, by recognising African authority in tracts of territory called “locations” amongst land reserved for settlers. But London objected to this and Queen Adelaide Province was abandoned in 1836.

As the governor’s interpreter during the war, and to Harry Smith in its aftermath, Shepstone had direct experience of some of the most violent episodes on the frontier in one of its cruellest wars. Only just turned eighteen, with his missionary father playing a crucial and devious role in the negotiations with the Xhosa chiefs, his son moves like a shadow through the contemporary records of the frontier conflict. But the role he played was a crucial one. He was confident in his ability and said so, “understanding their language, not only what they say, but the full meaning of their expressions....”.²⁵ He impressed his superiors with the fluency and intelligence of his interpretations and quickly gained the confidence. But when Harry Smith suggested that he read the speech he was about to translate, Shepstone refused saying he felt spontaneity was preferable. Thus, apart from the admiring comment of one witness who heard him translate “immortality of the soul” as “a life that has no end”²⁶ we don’t know what he said to his huge Xhosa audiences through 1835 into 1836. Nor do we have an independent version of their replies. Shepstone was to develop this role as sole mediator between the oral and the literate, Nguni and English speaker, into a devastatingly effective political strategy in which he became responsible for ordering relations between native and settler and their knowledge of one another. And in so doing he also trapped the historian who has to depend on his written accounts – and who has only hindsight, contextualisation, and close and critical reading, not only to deconstruct the discourse, but to get beyond it to the event.

We can only speculate on how Theophilus Shepstone interpreted and presented to the Xhosa the abusive, hesitant, inconsistent, words of the Lieutenant-Governor D’Urban and Colonel Harry Smith’s ravings that moved in a moment from the maudlin to the murderous. Shepstone also translated the Xhosa responses to the officials at these long, demanding meetings with thousands of Xhosa and their chiefs. One has to wonder how he did it: how the young man was able to make the Lieutenant-Governor’s unguarded statements of Xhosa savagery accessible to the savages themselves, and communicate the grotesque meanderings of the unstable, capering Harry Smith, with some dignity. It is no wonder Shepstone developed a public style that was guarded, careful, ordered and firm, everything that Smith’s was not.

²⁵ British Parliamentary Papers. *Despatches from or to the Governor of the Cape of Good Hope relative to the late Caffre War*, 12 July 1837. No. 14, D’Urban to Glenelg, 19 September 1836, enc.3E, Shepstone to D’Urban, 28 July 1836.

²⁶ W. B. Boyce, *Notes on South-African Affairs* (London, 1839), 37.

McClendon comes to the opposite conclusion and states that Harry Smith “became Shepstone's most important mentor, influencing Shepstone's style, his ideas about ruling colonial subjects, and his sense of politics”.²⁷ In fact where Smith was loud Shepstone was reserved: where Smith pronounced his ideas to the world Shepstone kept them to himself; where Smith bellowed Shepstone was impassive; where Smith acted outrageously Shepstone kept within the bounds of convention, European or African; what Shepstone learnt from Smith as his mentor was not to follow his example.

One has to wonder to whether such misreading of the sources is a consequence of being diverted from the historical record by the search for traces of ontology or grand narrative in the existing secondary sources. Consider another example. It can be assumed that there were links of some kind between the policies developed in the Cape on the frontier, and those introduced in Natal on its founding in the early 1840s. Most of Natal's settlers and all of its officials were from the Cape and had direct experience of the war of 1834-6 which culminated in the annexation, and then the retrocession of Queen Adelaide Province. It is the nature of these links at anything beyond the most obvious level that is more difficult to ascertain. As we have seen the man who initiated the plans for Queen Adelaide Province, D'Urban, was uncertain and hesitant: Smith, who implemented them, was unreliable and erratic. Just what their plans were and to what extent they were implemented is unclear because they were soon abandoned. But links of some kind have long been recognised. It was Macmillan who pointed out that it was the setting up of Queen Adelaide Province that saw an early use “of the ill-omened term *location*”²⁸ which was to become so closely associated with the land set up aside for African occupation in Natal.²⁹ More recently historians have begun to discern more substantial connections between policies of chiefly rule mooted for Queen Adelaide Province and those set up in Natal a decade later.³⁰ Etherington sees it as an “experiment” that “would evolve over time into what became known as ‘Indirect Rule’”. Price has no such hesitation, although it remains a mental initiative: “it was from the experience of these resident agents in the obscurity of the Cape Bush, rather than the shimmering deserts of northern Nigeria, that indirect rule in Africa was first imagined.”³¹

But what of Theophilus Shepstone's role in this? For our purposes there is sufficient evidence that the sort of ideas that influenced Natal in 1846 when Shepstone took up his post were being discussed by people with whom he was associated in the Cape. For example the Wesleyan missionary Boyce, adviser and confidant of D'Urban, and Shepstone's mentor, wrote in a book published in 1839, written in 1838, about events in 1836, that

Certain reserves of land between the locations of each tribe, were preserved for the purposes of planting trading stations, military posts, &c, The Principal Chiefs were appointed Magistrates, to exercise a delegated and legal jurisdiction over their people, subject to the controul [sic] of an English Agent; the usages and customs of the Kaffer councils were not be interfered with, and the

²⁷ McClendon, *White Chief, Black Lords*, 23.

²⁸ W. M. Macmillan, *Bantu, Boer, and Briton The Making of the South African Native Problem* (Oxford, 1963) 151-2.

²⁹ E. H. Brookes and N. Hurwitz, *The Native Reserves of Natal* (Cape Town, 1957), 16-7.

³⁰ See Alan Lester, *Imperial Networks*, n. above.

³¹ Norman Etherington, *The Great Treks. The Transformation of Southern Africa, 1815-1854*. (Great Britain, 2001), 234 and Richard Price, *Making Empire. Colonial Encounters and the Creation of Imperial Rule in Nineteenth-Century Africa* (Cambridge 2008) 223, and n.8 on the recent historiography of indirect rule.

old laws remained in force; care, however, being taken to provide for their equitable administration, by reserving to Kaffers of every rank a right of appeal from the court of the native Magistrate, to that of the English Agent; and thus a foundation was laid for the gradual, but certain, introduction of an improved state of society....³²

But it was not Shepstone who was in the first instance was responsible for taking ideas developed on the eastern frontier to Natal. Advocate Henry Cloete was a member of the Cape Legislative Council when the proposals for Queen Adelaide Province came before it in 1836 and he supported them with enthusiasm.³³ And it was the same Henry Cloete who in 1843, as British Special Commissioner in Natal to negotiate the pre-annexation settlement, recommended that six or more “locations” be set up for Africans, and a missionary or “a person of known humanity and active habits ... be appointed by Government as the superintendent”.³⁴ Such a system Cloete believed “will lay the sure foundation of a gradual improvement in the habits and morals of this benighted people...”³⁵ and were approved by London early in 1845 and incorporated into the instructions to the Natal’s Locations Commission of 31 March 1846, which urged that clear boundaries be kept between settler and native in order to facilitate the “condensation” of both parties.

But, despite his familiarity with the ideas being proposed for Natal in early 1846 when Shepstone arrived in Natal, it was not the similarity but the difference between the newly annexed district and the Cape frontier which so impressed him. In Natal Africans were not allies or enemies, they were British subjects. Natal had not suffered the consequences of decades of theft, border raids, and imperial vacillation. In Natal it would be possible to make a new departure in colonial native policy. It provided the opportunity – in the phrase used by both Shepstone and his missionary-influenced supporter, David Dale Buchanan, editor of *The Natal Witness* – for a “Grand Experiment”.³⁶ It was a “blank sheet” on which new terms were waiting to be written.

In the opening months of his tenure Shepstone was visited by the colony’s *amakhosi*, asking that their claims to land be recognized. Fluent in their language and familiar with their history Shepstone impressed London with accounts of the understandable commitment to civilized government of people who had suffered the appalling violence and insecurity caused by the rise of the neighbouring Zulu to power. In order to play up the African recognition of British superiority, and play down their requests for recognition of their claims to land, Shepstone tweaked his official report³⁷ and then used it for the rest of his life as the founding document for his policies – something he was able to do as long he kept oral Africans unaware of what he was writing, and the linguistically limited officials unaware of what Africans were saying.

³² Boyce, *Notes on South-African Affairs*, 33 without the author’s italics.

³³ *Ibid.*, 60.

³⁴ The confusions and misunderstandings referred to in the letter of the Land and Emigration Commissioners to James Stephen, 31 October 1844 (Bird, cited below, 442) suggest that Cloete was considering, though reluctant to officially recommend at this point, the appointment of chiefs to the locations as well.

³⁵ John Bird, *The Annals of Natal. 1495 to 1845* (Pietermaritzburg, 1888) II, Cloete to Montagu, 30 May 1844, 314-5.

³⁶ A phrase, it should be noted by those interested in the history of trans-nationality, associated with Thomas Jefferson and the founding of American liberal democracy. <http://www.princeton.edu/~tjpapers/volumes/volume1.html>

³⁷ Thus the subsequently published report on the initial visits of Natal chiefs to Shepstone’s office leaves out the phrase to be found in a manuscript version written at the time that the chiefs’ intention was “to ask for lands to be allotted to them”.

Devised to keep his superiors and inferiors dependent on him for their knowledge of one another, nothing that Shepstone wrote or said can be taken at face value. This is not to say that it is useless – but what is invaluable is so adroitly intermixed with the manipulative that to distinguish the one from the other is only possible through close comparative reading and precise contextualisation. And it is possible to go beyond understanding his deviousness as a personal idiosyncrasy. It sprang from the conditions in which he had grown up and first worked. Shepstone's knowledge of African languages was gained on the frontier in missionary households. His linguistic fluency was acquired together with a knowledge not only of African custom, culture and tradition, but also African ideas on the politics and behaviour of missionary and settler on the frontier. Shepstone's navigated his way amongst these dangerously different perceptions of the frontier world by keeping his counsel. It created a formidable presence and an intimidating silence which only made the occasions when he did voice his opinions more impressive. Shepstone's forbidding reticence grew out of knowing too much about all sides of the colonial confrontation. And this allowed him to advance his opinions and defend his decisions in his own manner and at his own time. It also meant that the record he left behind of his plans, policies and actions is as formidable challenge to historians as the man was to his contemporaries. And it is a challenge that certainly can't be adequately met with concepts as contradictory and undefined as indirect rule, or as broad and imprecise as the civilizing mission.

Marriage and Civilization

In his study of South African legal history Chanock has written that “[i]t is hard to exaggerate the importance placed on the distinction between European and African marriage...”³⁸ and this is true of Natal's history from the time of the first historical records. By Law 1 of 1869 the Lieutenant-Governor of Natal enacted a law by which a fee of £2 would be imposed on all African marriages³⁹ and in the process generated a furious debate from all the parties involved, and one which has been revisited in recent years by a number of historians.

The immediate context of the law was that central event in Natal's early colonial history – the collapse of the colonial economy in the late 1860s. Natal, short of capital, natural resources and exploitable labour had never had the capacity to build a successful commercial colony – it was this that lay behind the hostility towards Africans so indifferent to settler demands, and the official who allowed them to remain so. And in 1865 the local economy that had been built on promissory notes and secured on the paper value of land collapsed. Deprived of what they saw as the resources they had built by their labour and ingenuity in the past, and denied the chance to rebuild it in the future, the settlers turned on those they held to be responsible. There was the colony's executive government whose ineptitude it was said was responsible for the crash, but whose salaries were secured by the civil list. There were the African men who failed to supply labour on the settlers' terms, and who undercut market prices by forcing labour from their women, all made possible by the immorality of African marriage whereby wealthy old men used cattle to buy younger women to indulge their sexual needs at home and exploit female labour in the fields. And they were assisted in this by the Secretary for Native Affairs, who insisted on keeping Africans on the land

³⁸Martin Chanock, *The Making of South African Legal Culture, 1902-1936. Fear, Favour, and Prejudice.* (Cambridge, 2001), 197.

³⁹ *Natal Government Gazette*, 16 February 1869. The Law in itself has to be seen together with the regulations it authorised – a strategy that gave Shepstone the administration flexibility so important to him.

and defended polygamy and bride wealth. Shepstone was therefore the target of a dual attack: for his personal privileges as a member of the executive, and for indulging the barbarous practices of African men.

In 1867, with the colony's revenues collapsing, the elected members of the settler Legislative Council proposed the doubling of the hut tax for Africans. Shepstone rejected this as too dangerous and proposed the introduction of a marriage fee. He made the point repeatedly that his prime motive in doing this was not, as his opponents continually asserted, to raise revenue from polygamous marriages. It was to rectify a social imbalance that had developed within African society: the increasing number of cattle now being demanded as *lobola* by fathers (necessarily older and wealthier men) which worked against the interests of younger (and necessarily poorer) men seeking to marry.⁴⁰ It was a clever move linking an increase of revenue from Africans, on which the settlers insisted, with African polygamous marriages, which they abhorred. Faced with contradictory options the settlers fumed, fought, and divided. The imperial authorities, with reservations, supported the idea of a marriage fee and in February, Law 1 of 1869 was proclaimed. This was done in manner which Shepstone believed to be essential. It was short and succinct establishing a simple fee structure and enabling the Secretary for Native Affairs to develop the process by means of local regulations. Chiefs were to be responsible for raising and recording the collection fees and the law was not to be promulgated until Shepstone had had the opportunity of explaining it in person to Natal's Africans.

The response of the settlers' elected representatives was to intensify the campaign against the Secretary for Native Affairs and his policies. Fees on African marriage were depicted as not merely legalising, but raising revenue on the oppression of women. *The Natal Witness* ran stories of atrocities against women that Shepstone was said to have covered up in the past, and invited its readers to contribute more. It was proposed that, for reasons of economy, Shepstone's office be incorporated with that of the Colonial Secretary. Shepstone responded with cold anger as he pointed to the handful of disappointed ambitious men behind this plot to discredit him as part of their political plot against the government. He also built up his defences by extending the regulations under the marriage legislation: woman about to be married had to declare publicly that they did so of their own free will, and a maximum of ten head of cattle was announced for a commoner marriage, rising with the hereditary rank of the bride's father.

Welsh dealt with storm around the marriage law at some length⁴¹ and although he takes up the debate that followed he does not give any suggestion of its intensity. It is also the subject of a doctoral dissertation that seeks to challenge the restrictions that narrow conceptions of class and race have imposed on South African historiography, opening the concepts by examining more carefully their origins and the manner in which it was applied.⁴² The ideas of the "Scottish enlightenment" the "civilizing mission" and "civilized domesticity" as practised in the Cape are seen as essential determinants in the development of racial thinking in Natal. While they were expressed in variety of ways, from liberal reform to violent enforcement, by Shepstone, officials, settlers and

⁴⁰ The manner in which this was to be done was changed in the debate that preceded the Act, and in the implementation of the Act itself.

⁴¹ Welsh, *Roots of Segregation*, V "Attempts to Reform Traditional African Marriage", pp78-92.

⁴² Jeremy Martens, "'So destructive of domestic security and comfort': Settler domesticity, race and the regulation of African behaviour in the Colony of Natal, 1843-1893" (Doctoral thesis, Queen's University, 2001)

missionaries, they all drew, it is argued, on a shared set of ideas and influence which can be situated in the Scottish enlightenment.

The argument does not seem to me convincing. As so often happens when discourses are held to be “forces in their own right” they impose themselves at the expense of the historical sources. If racial perceptions are to be replaced with ideas of civilization and savagery, the enlightenment, and civilized domesticity, then the terms themselves and their linkages have to be made very explicit. There is a tendency in the thesis to locate any suggestions of an evolutionary progress from savagery to civilization, or the pursuit of commerce and the market, or the need to liberate women from abhorrent African domestic practices, within the historical, economic or gendered ideas of the Scottish enlightenment. But the evidence for this is spread far too thin to hide the dominant, vicious, settler racism emerging from far more fundamental immediate, material, gendered, psychological, documented factors, framed and interpenetrated by the urgent, demands of aspirant capitalists whose expansion is frustrated by people practising a different way of ordering the world.

The emphasis on the effect of the ideas of the Scottish enlightenment on the Law 1 of 1869 is especially ironic when there is evidence that suggests that a closer examination of the sources of the times suggests ways that it could be applied very vividly, although not as broadly. David Dale Buchanan, grew up in New Lanark, emigrated to the Cape as a boy where he was profoundly influenced by John Philip and John Fairbairn and came to Natal in 1846 to found and edit *The Natal Witness* dedicated to the ideals of these men, and to the support of Theophilus Shepstone. In 1869 after more than thirty years of editorial struggle against increasing violence and intolerance towards Africans, Buchanan took a few months leave in order to give political support to the Basotho in their struggle with the Free State Boers. The editorial chair was taken over by a number of settler journalists of whom Ralph Ridley, in his younger days in England a radical “stump orator”, was the foremost. From the newspaper’s tone and argument the moment that Buchanan, for whom a case could be made to be a descendant of the Scottish Enlightenment, left the *Witness* and Ridley, the radical populist whom colonial Natal made into a racial one, arrived is absolutely clear. For Buchanan, commercial expansion and education were part of the same liberating process. For Ridley, education for Africans could only raise false hopes and unachievable aspirations which would lead them to idleness, disease and beggary, as had happened in Europe. For enlightened liberals like Buchanan, Africans would be freed by the forces of the market and commercial competition: for the settler populists like Ridley, Africans were to be liberated by force – and not just by wage labour but the treadmill, mutilation, branding, the threat of lynching, castration, and exposing the dead bodies of the publicly hanged.⁴³ Both men had a shared goal – civilization – but what this meant for them in practice, and how it was to be achieved, was so different that it makes irrelevant what they had in common.⁴⁴

The most recent book on Shepstone in Natal also spends time on Law 1 of 1869 but applies ideas developed in the broader literature to explicate them. The problem lies in

⁴³ These solutions can be found in the editorial and correspondence columns of *The Natal Witness*, in particular in Buchanan’s absence in 1869.

⁴⁴ Buchanan himself, public figure, leading lawyer, brave and outspoken editor in the liberal humanitarian cause, ended his life bankrupt and discredited after following his ideas to what, in a colonial situation, was their logical end when he advocated that Africans treat their opponents in the same way they had been treated – and that the Basotho “lay waste” the Free State.

seeking ideas outside the object of study, when there is so much within it that still needs explanation. Thus Shepstone's proposal that, according to the new regulations, records should be kept of marriage transactions is seen as part of the history of inscription and the imposition of 'legibility' – perhaps, but the fact that it was not carried out immediately or consistently, reduces its significance. But no assessment of the 1869 marriage regulations can be undertaken without placing it firmly within the conflict that they caused between Shepstone and the settlers. It dominated the debate at all stages, it allowed the settlers to mock and humiliate the Secretary for Native Affairs, it persuaded the imperial government to reprimand him, it forced Shepstone onto the defensive, it occupied his time, and undermined his careful separation of the native from the settler and the manipulation of both. These conflicts influenced the accounts he left on record of his meetings with Africans and have to be taken into before any assessment of the African voice can be made.⁴⁵ It also marked the beginning of the end of his hitherto controversial but successful career, when, attempting to ameliorate settler hostility towards him, he was persuaded to coerce the African chief Langalibalele in a settler organised attack that from the start was doomed to fail.

The “sexual economy”

But the debate around the marriage fees was not only significant for its impact on subsequent events but for what it reveals about perceptions of African marriage. We are told by McClendon that

we should remind ourselves that the nineteenth-century civilizing mission was quite intent on the need to improve what white observers saw as the degraded position of African women (a metanarrative that continues to have force in the twenty-first century).⁴⁶

In fact there is no forceful metanarrative at all: only an ahistorical misinterpretation which sees a surface, shallow continuity that obscures the actual, rooted, disrupted history of the exploitation of women.

At one level marriage is a mutually intelligible cross-cultural concept – along the lines of the socially recognised union of men and women for the purpose of social and biological reproduction. Marriage is an institution in which the deepest individual desires and demands are expressed and organises the manner in which physical and social reproduction itself takes place. Marriage determines the contours of social life over the most extended topographies, dominating the lives of participants and focussing the attention of observers on the infinite variety of forms in which it manifests itself. At the same time, as Natal's Lieutenant-Governor wrote during the time of the marriage fee debate, “it can only be from the poverty of language that two things so dissimilar as Christian and Native Marriages are called by the same name.”⁴⁷ There could be no comparison between the settler marriages and those practised by Africans in which patriarchal power was imposed over a number of wives and their offspring (polygamy), and the legitimated by the passing of cattle from the family of the husband to that of the wife (*lobola*). And as such these differences were indeed perceived as prime differences between the savage and the civilized – but the differences themselves have to be placed in a wider context.⁴⁸

⁴⁵ The passage on African responses to the marriage fee on page 88 of *White Chief, Black Lords* is especially misleading because it fails to take this into account.

⁴⁶ McClendon, *White Chief, Black Lords*, 87.

⁴⁷ The National Archives: CO179/91. 13477, Keate to Buckingham, 24 October 1868.

⁴⁸ The difficulty with assessing and compressing Martens' argument is that he admits this – but only briefly (e.g. 56-7). Generally the Scottish Enlightenment predominates as not just an explanatory but a causal factor.

The significance and centrality of African marriage to social organisation was apparent to colonial observers and officials from the very first. It received the attention of those responsible setting up the constitution and legal framework of the colonial state, and those who held themselves responsible for its moral foundations. Observers then and now have given marriage in colonial Natal special emphasis. In his recent examination of South Africa law Chanock admits that the twentieth century common law was “fundamentally shaped by the development of a discourse of enduring vitality during the second half of the nineteenth century.” Indeed the “terms of the debate” on African law “remained fixed” concentrating on whether power was most effectively exercised by using or adapting existing structures while “[t]he second prominent theme was the sexual economy of African societies: polygamy; bride-wealth marriage; the status of women.”⁴⁹

The phrase “the sexual economy” provides a point of entry into the debate about not just African marriage but the very structure of pre-conquest African society. The economic significance of sexual relations lay not in their practice but whether they were fertile. And this was a consequence of the basic principles on which pre-conquest African societies were organised – principles so different from the intrusive colonial ones that they lay beyond the range of colonial comprehension – and indeed remain so to this day. The dynamic at the heart of African societies lay in the accumulation by adult men of the labour power of women and children that began with the onset of marriage and the transfer of cattle from the family of the man being married, to that of his wife. Labour power here is used to indicate the potential for productive work and this transfer was completed on condition that the bride, as a wife, applied her labour productively on the agricultural land provided by her husband; that she used its produce to support her house within the homestead; and that she proved to be fertile. Failure to be productive and reproductive, could lead to the return of the cattle, and the woman, to their respective homesteads. The social objective of those who held power, married men, was the accumulation of labour power; or to make this more concrete, the accumulation of wives and children; or more precisely, wives and children whose fertility would be realised as cattle on marriage, and their labour power manifested as the produce on which the homestead depended; and ultimately the reproduction of new homesteads and more cattle on their marriage of daughters. This cycle of production and reproduction was driven by the need to accumulate the productive and reproductive people whose labour power was embodied in cattle as the ultimate source of value.

The significance of cattle in southern African societies is recognised in all its variety in the literatures and the lives of the people of southern Africa. But, generally, they fail to explain the historical origins of the central role of cattle in terms of the demands of pre-conquest societies. Cattle are seen, correctly, as a store of wealth, but are analysed as if they were commodities in a capitalist system, a bank, amenable as was once suggested to cost-benefit analysis.⁵⁰ Even the informed and sophisticated article on cattle in Tswana society by the Comaroffs, which draws on Marx’s analysis of the commodity, is unconvincing insofar as it fails to move on to consider the concept of labour power as

⁴⁹ Chanock, *South African Legal Culture*, 244-5.

⁵⁰ Adam Kuper, *Wives for Cattle: Bridewealth and Marriage in Southern Africa* (London, 1982), p.167 and Basil Sanson, “Traditional Economic Systems”, ed. W.D.Hammond Tooke, *The Bantu-Speaking Peoples of Southern Africa* (London, 1974).

a commodity in African society before and after colonial conquest.⁵¹

Wealth in pre-colonial societies did not lie essentially in the accumulation of cattle or people. To assume this is to transfer the idea of the alienated product, fetishized in societies organised around the production of inanimate things. It lay in the process – the process of the accumulation of people in their capacity to produce: they were not based on the accumulation of things to be exchanged for more things; they were organised around the production of animate life – of living things, of cattle and people. Their accumulation was in the control of men, but the process depended on women – their production and reproduction in the households within aggregations of homesteads, – and who in the process created not just a household, but a complete, materially self-sufficient, place of production and belonging – a home.

“Wealth in People – Wealth in Things”

It was upon this social and economic foundation that the pre-colonial societies of southern Africa were created and around this dynamic that they revolved.⁵² It has also been recognised that regionally specific variations of these themes existed widely in Africa. As Jane Guyer wrote in the article entitled “Wealth in People, Wealth in Things”

It is now generally recognized that the most important of these ‘goods’ was people. Wealth embodied in rights in people lies close to the center of African economic and social history over the past five hundred years: in the slaves trades on the one hand and in political and kinship history on the other. The concept of wealth-in-people, as a specifically African mode of accumulation, was developed to apply to this perception.⁵³

While I am of the opinion that the ideas developed in this and its associated articles are of the greatest interest, and should lay the basis for comparative pre-colonial histories, we must be aware that regional specificities created significant differences. But, whether the variations in physical environment and the uneven impact of external trade and slavery had fundamental or peripheral effects on wealth in people, still needs informed analysis and comparative research.

I should also make some of my differences with Guyer’s articles clear. Firstly, while the phrase wealth in people is succinct and accessible, to be more analytically accurate, at least insofar as southern African cattle-keeping cultivators are concerned, it is wealth in labour-power that has to form the basis of any analysis. The problem with “wealth in people” is that it includes slavery, the possession and control of the person, and not just the control of their capacity to work productively – that is labour power. It makes things of people, and thus the phrase “Wealth in People, Wealth in Things” contradictory. Secondly, in the southern African case again, wealth in labour power is accumulated by its value in cattle, and realised in marriage and women’s capacity to produce and reproduce, by which “value in things” is ultimately measured. “[P]olitical and kinship history” was validated by the movement of cattle between overlord and his subjects and amongst kin. In my reading of southern African pre-conquest

⁵¹ John and Jean Comaroff, “Goodly Beasts, Bestly Goods”, *Ethnography and the Historical Imagination* (Boulder, 1992), 140-4.

⁵² I have made this argument in different forms on a number of occasions beginning with ‘Analysing pre-capitalist societies in southern Africa’ *Journal of Southern African Society*, 14, 1 (1987). It was reworked as a chapter in ‘Gender oppression in southern Africa’s precapitalist societies’, *Women and Gender in Southern Africa to 1945*, (ed. Cherryl Walker), (Cape Town: David Philip, 1990).

⁵³ “Wealth in People, Wealth in Things - Introduction”, *The Journal of African History*, Vol. 36, No. 1 (1995), 84

history Wealth in People was the Measure of Value. Wealth in Things as the Measure of Value came with the intrusive mercantile and colonial forces. And it is here, in my view, that we find a narrative that is too often obscured by excursions into the discourses on the myriad worlds of social and cultural history, fascinating and essential to any understanding of the past and the present, but whose significance can only be understood when they are brought in from the periphery and secured within the more fundamental trajectories of modern history and illuminated by them.

Wars: People against Things

In the mid-1860s when the debates around African marriage were dividing colonial Natal, Buchanan as editor of *The Natal Witness* was able to get beyond the surface meanings of the words, in a way that both his contemporaries and subsequent historians have been unable to do. Defending Shepstone's cautious, conservative approach to African custom he felt that although "the stern little word 'war'" was not used in Natal's debates and more apparently innocuous ones like "'polygamy', 'tribal titles', and 'labour'" were, the intentions of the settlers were clear.

What though the end be the same, if our consciences are lulled by smooth and indirect means. The paths are but two, and it is for us to choose one or the other - peace or war!⁵⁴

This seems to me to point directly to the fundamental differences between the native and the intrusive societies in the nineteenth century - their essential incompatibility, the one based on people, *abantu*, and its resources dedicated to their increase, and the other to the domination of people and their resources to accumulate things, *izinto*. It is around these contradictory, determining, impulses that we need to understand conflict (and co-operation) in the history of nineteenth century South Africa. The histories of the war of conquest are detailed and horrifying, whether they are viewed through the lens of imperial nostalgia like the historiography of the 1879 British invasion of the Zulu kingdom, from the perspectives of the victims on both sides as in Mostert's *Frontiers*, or from the those who suffered most immediately and comprehensively as depicted in Peires' work on the Xhosa.⁵⁵ But, whatever the perspective, certain obvious themes dominate African defeat: the destruction of the homestead, the loss of cattle, the occupation of land. The manner in which this was carried out, the disparities in military technology, the loss of life and the means of support for women, children and the old, not as collateral damage but as deliberate strategy,⁵⁶ has been written about, if not in these terms, then in all its cruelty. But, in most cases, the histories are not pursued beyond accounts of material loss, terrible as they were, and fall short of what the loss meant in its totality – the destruction of the world.

It is Jeff Peires who, in his moving and significant account of the final years of Xhosa independence, has analysed most comprehensively and accessibly what this meant when, after the battles, the conflicts, the changes, the decades of pillage and loss, the Xhosa turned on themselves and destroyed the remaining means of their autonomy, their crops and their cattle. At the time of the book's publication I wrote an ungenerous review "A Landmark not a Breakthrough",⁵⁷ a title I wouldn't change even though, as the tide of South African historiography recedes, the book's status as a landmark

⁵⁴ *Witness*, 12 January 1864.

⁵⁵ Jeff Peires, *The Dead Will Arise. Nongqawuse and the Great Xhosa Cattle-Killing Movement of 1856-7* (Johannesburg, 1987).

⁵⁶ "Non-Combatants and War: The Unexplored Factor in the Conquest of the Zulu Kingdom" *Inventing Collateral Damage. Civil Casualties, War, and Empire*, eds. Stephen Rockel and Rick Halpern (Toronto 2009).

⁵⁷ "A Landmark, not a Breakthrough", *South African Historical Journal*, 25, 1 (1991).

gains in stature. At the heart of my concerns was the emphasis on cattle, that is the male preserve and the source of their power, and the neglect of the products of women's cultivation, which with their fertility was source of wealth in people. It is only when we make the effort to see African society in its totality that we understand the full horror of the frontier wars of the nineteenth century which entailed, for those who survived, not just the loss of their possessions, the land, their crops, the living, but a way of life in the fullest, rounded, sense. It is within the totality of this unprecedented social, spiritual trauma that the Xhosa's own deliberate destruction of all they had left, in order to regain all they had lost, has to be seen.

This happened in a conflict between a world based on people and a world based on things – an economic system driven by the accumulation of commodities, in which land was commoditised not for use but for exchange, to accumulate wealth, not in cattle, but in coin, not in the animate but the inanimate, not in people but in things, not in *abantu* but in *izinto*. In Natal it was manifested from the earliest years in the sustained demand of settlers for land as an individual possession and the labour of the Africans who lived on it. And standing in their way, as they saw it, was the policy of Theophilus Shepstone who was determined to keep some Africans on some land, grant certain chiefs local authority to exercise aspects of customary law at the heart of which was the African productive system – which they called marriage. But it was polygamous marriage and therefore in conflict with the very foundations of civilised morality and Christian belief. And it was based on exchange and was therefore female slavery, the sale of women for cattle and cattle for women. Shepstone opposed such ideas and developed a policy which sought to bring a substantial number of people on to the side of the colonial authority by giving them security in land; which identified Africans of status as chiefs and incorporated them into an administrative system which was later called indirect rule, and which applied customary law which recognised African marriage as the foundation of the productive homestead and patriarchal power.

Shepstone held that these policies should not be seen as a system but as a series of temporary measures which would in time, when Africans were ready, give way to progressive ones. For Shepstone had grown up on the eastern frontier of the Cape and knew the consequences of forcing the pace of change. He had spoken with and listened to thousands of Xhosa as they attempted to keep a hold on their land, their labour, their lives, their authority, and their world. He left the Cape in 1846, fully aware of the tensions that were developing on the frontier. And in Natal he found a situation quite unlike that of the Cape. Instead of African resentment at the loss of land at the hands of the Boer and the British, he was able to restore Africans to some of the land they had lost to the Boer and the Zulu; instead of depriving the *amakhosi* of their authority he was able to recognise it. This is not to say that Shepstone was benevolent in his rule. He could be underhand and cruel towards those he felt opposed him, and protect with violence the Africans he saw as allies. The Combined Court he set up to apply tribal law in cases of cattle theft – a crime which had left the Cape “burnt black” and would never be allowed to flourish in Natal – met regularly throughout his term of office and imposed harsh, mandatory sentences. What was called the Shepstone system was openly built on his experiences on the Cape frontier –but not in imitation, but in opposition to them.

Failure

He failed of course. He might delay the effects of the forces of the times – the alienation of land as private property, commoditisation, wage labour – but he could not halt them. But what Shepstone avoided was the cataclysmic assault on African societies and its consequences. He initiated a process of change that was meant to be more gradual, took longer, and preserved elements of the pre-colonial system to ameliorate the effects of the colonial. It was implemented with a greater awareness of what Africans were thinking, and successfully incorporated traditional power systems, avoiding for the moment, violent opposition. Instead of confronting the African system based on the accumulation of wealth in people it undermined it. The *amakhosi* continued to rule, *lobola* continued to be paid for polygamous marriages, even as the land was being lost, taxes increased, homesteads lost their autonomy and their cohesion as wage labour became a necessity according to the demands made by new forces of power and authority pursuing the accumulation of wealth in things.

The Native Administration Act of 1875 signalled the end of Shepstone's political and administrative dominance. It took judicial authority away from the office of the Secretary for Native Affairs, terminated the marriage fee as a means of raising revenue, and incorporated other features into a system of codified customary law – something that Shepstone consistently opposed. The Code itself, in the name of custom, destroyed it, imposing a rigid system of rules which satisfied settler ideas of racial dominance and facilitated the imposition of the demands of the intrusive system of capitalist accumulation. Even here, of course, older forms of administration and rule continued, but steadily emptied of their content. The process of historical change is always deceptive. Elements of older social practices are retained, but in different forms, justified with different arguments, some historical, always changing even if only to turn back on themselves but in different guises. Within a few years of the termination of Shepstone's dominance as native administrator the Shepstone System was being defended by the very men who had opposed Shepstone during his life time. Shepstone might have been defeated in the colony, but Sir Theophilus still had enough of a reputation in the metropole to give a veneer of political respectability and anthropological depth to vicious, settler programmes. In time Shepstone was depicted as the originator of a system of indirect rule and segregation. But there was no direct evolutionary genealogy of ideas. These were administrative and political responses that used familiar concepts to create an apparent continuity in the dynamic and ever-changing ideas and policies pertaining to different aspects at different levels of a changed society.

Unproblematic, direct links with the past are asserted today in all their variety in the academic, the popular, and political perceptions of the world. In the name of African tradition the South African President is proudly polygamous, and the rural homestead remains high on his scale of priorities. The South African Constitution asserts a continuity between the African past and the African present when it refers to the “institution, status and role of traditional leadership, according to customary law....” and the “the traditional justice system and its values”. At one level this does of course reflect a continuity with the past: but while the emotional level might be intense, at an analytical level it is shallow, sustained by words which have lost their meaning, assessments that have become habitual, and arguments which have lost contact with the world to which they believe they refer. And it is the historian's task to bring them back to earth: to practice historical history; to establish connections in order to discover the disconnections, so often hidden and obscured by the profound human need to make

some sort of sense of the world in which we live, and the goals we want to achieve.