

# **EARL GREY'S NATIVE POLICY IN SOUTH AFRICA, WITH SPECIAL REFERENCE TO NATAL**

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## **SUMMARY**

Earl Grey held office over a critical period<sup>1</sup> when the policy of the Colonial Office was in advance of public opinion. Contemporary criticism of the two South African colonies was in favour of throwing off the burdens involved by their connection with England. The Secretary of State supported and maintained the retention of the Cape and Natal on the grounds that England owed protection, both to her subject colonists there and to the large numbers of natives who had been led to look to her for support.

Previous to 1846, little success had attended the native policy of the British Government. The regulations protecting Hottentot and slave labour within the Cape and the uncertain policy on the Eastern frontier caused the dissatisfied farmers to trek in search of freedom from interference.

The protection which Earl Grey wished to afford to the natives forced him to extend his authority from the Cape and the recently annexed Natal Republic to the Orange River Sovereignty. The thesis gives account of the general principles of his native policy and the changes made during its application to these districts. Credit for success was not generally attributed to Earl Grey in 1852, and an attempt has been made here to prove that his principles were sound and to explain mistakes in his method. His successful scheme of native taxation is first in importance because he made all proposals for the development of the colony dependent upon the resources of its treasury. Natal best illustrates this point. A brief comparison of the native policy designed for this district with that of other dominions shews that it was not particular to, though perhaps most successful, in Natal.

## **NOTES:**

This version of Phyllis Lee's thesis has been transcribed from the original manuscript; it has been lightly edited by her two surviving sons: Bill and Andrew Bytheway.

- Words that are inserted where there was unreadable text (or for clarity) are enclosed within brackets [thus].
- Footnotes have been renumbered although their content is preserved exactly as in the original.
- The map that follows this page is a copy of the original, but with annotations added showing the 'native locations' as indicated in Footnote 55, on Page 16.
- The vocabulary of the thesis and of the sources that are quoted is preserved, despite the use of words that are today considered improper or offensive (such as 'kaffir' or 'native'); this is considered justified in that this was the lexicon of the British colonial administration at the time, and was widely used in its correspondence and written reports. Any attempt to avoid possible offence to sensitive readers would deny the insight that comes from seeing how the lexicon was used.

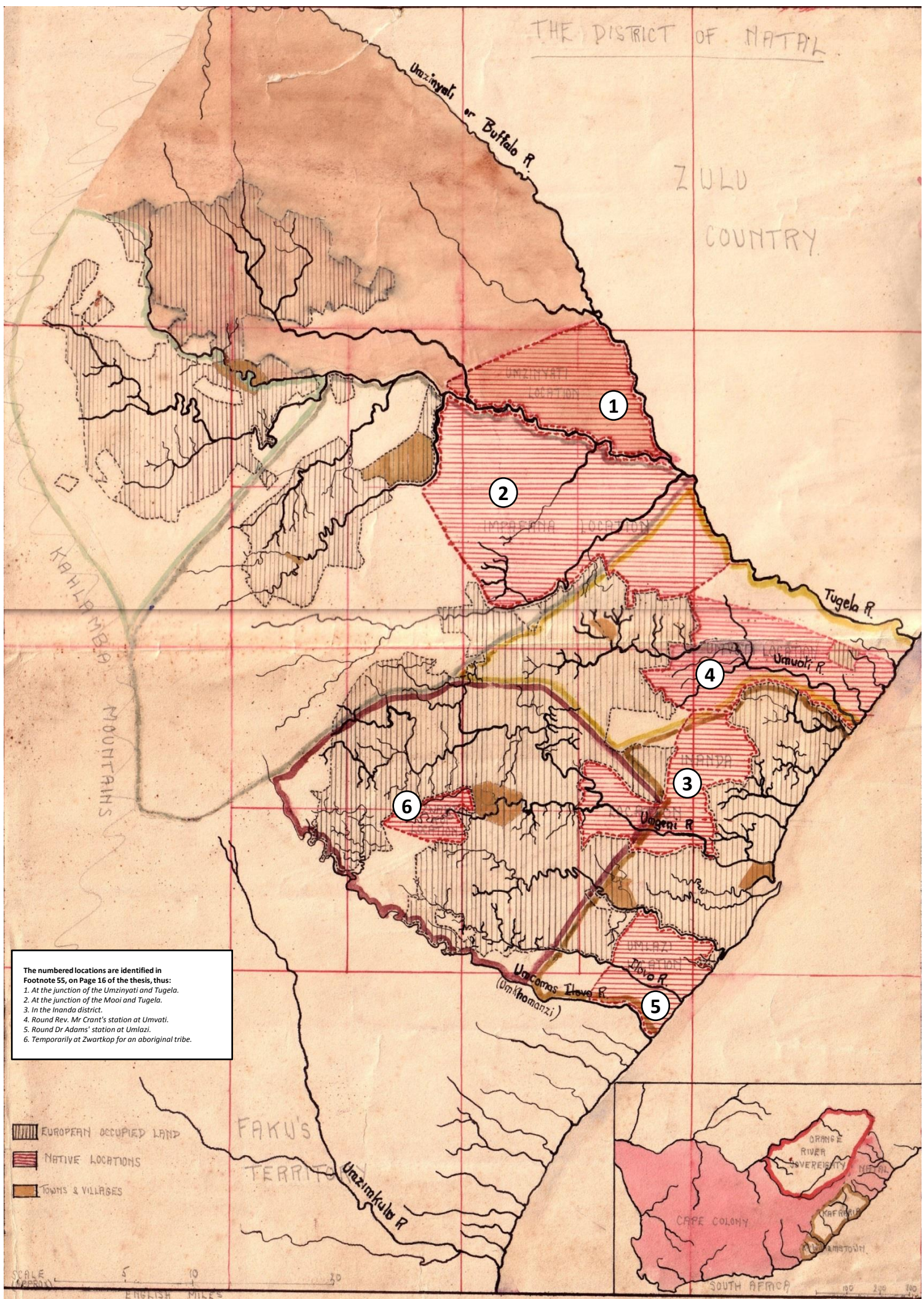
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<sup>1</sup> Henry Grey, the 3rd Earl Grey, acted as 'Secretary of State for War and the Colonies' from 6 July 1846 to 21 February 1852






THE DISTRICT OF NATAL

ZULU  
COUNTRY

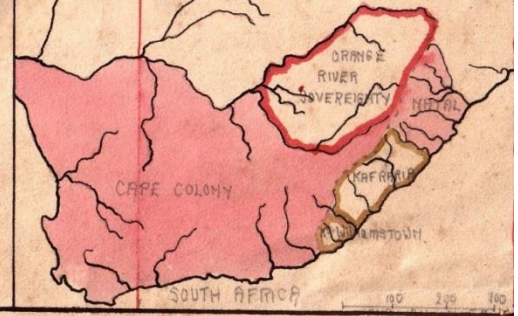


The numbered locations are identified in Footnote 55, on Page 16 of the thesis, thus:

1. At the junction of the Umzinyati and Tugela.
2. At the junction of the Mooi and Tugela.
3. In the Inanda district.
4. Round Rev. Mr Crant's station at Umvoti.
5. Round Dr Adams' station at Umlazi.
6. Temporarily at Zwartkop for an aboriginal tribe.

-  EUROPEAN OCCUPIED LAND
-  NATIVE LOCATIONS
-  TOWNS & VILLAGES

SCALE  
ENGLISH MILES  
0 5 10 20





## **EARL GREY'S NATIVE POLICY IN SOUTH AFRICA WITH SPECIAL REFERENCE TO NATAL**

In its earliest days, the settlement of Dutch colonists at the Cape experienced troubles which were to occur frequently during its later history. The first colonists were servants of the Dutch East India Company, stationed at the Cape to supply the needs of passing ships. The produce of the Company's gardens and farms monopolised that supply, but when it failed to satisfy the demand, then the officials of the Company threw the market open to the free burghers. Fresh meat was in great demand and extensive pasture lands lay over the mountains. But the pasture lands were occupied by the bands of Hottentots who bartered their cattle to the Company. The temptation for the Dutch farmers to conduct their own bartering with the natives, in spite of statutes to the contrary, was very great, greater than the police authority which the Governor had at his call to prevent it. The acquisition of large herds of cattle was accompanied by the extension and increase of the farms and they were not always situated within the boundary of the colony. Very often parts of the actual boundary line were undefined and so thinly patrolled that there was no difficulty in the way of the Europeans occupying land outside the settlement and natives claiming the right of occupation within. Disputes arose and increased in number as the farmers pushed the vague boundary eastwards. New claimants to the land acquired in this way succeeded the Hottentots, for the foremost of the Bantu tribes were travelling gradually south with their cattle herds. These Kaffirs gave way less easily to the farmers, as they put up a stand for the defence of their claim to the land, and fighting broke out on a larger scale than before.

No remedy had been found for this source of trouble when the Cape passed into British hands in 1815. The Government attempted to solve the problem by a clearer definition of the boundary and by placing restrictions on the intercourse between the frontier farmers and the natives. Thus the disputes, which had taken place between the farmers and the natives, now arose between the farmers and the Government, but the root of the trouble was the same. The Government laid down regulations to control the dealings of the farmers with the natives, and the farmers, on the other hand, were determined to acknowledge no check on their freedom in this direction.

The boundary line remained, as it had been in the days previous to British occupation, a river over which neither the colonists on the one hand, nor the Kaffirs on the other, should step or carry on any unofficial intercourse. No greater success attended the efforts of the British to maintain this settlement than the Company, for neither could supply the necessary police to prevent the farmers from both sides straying in search of fresh land, or avenging the theft of each other's cattle. Twice the land west of the Fish River, the appointed boundary, was cleared of the trespassing Kaffirs, and the same boundary line accepted by the paramount chief and the Government, but twice the agreement was disregarded. The years 1818 and 1819 saw the outbreak of the Fifth Kaffir War and a new line determined at its conclusion, namely a block of neutral territory, which was invaded by both parties within two years.

The coming of the 1820 Settlers to the eastern district made the evolution of a successful frontier policy of greater importance, for they could not merely play the part of buffer for native invasions, nor could they, as farmers, serve as a frontier police force over such an extent of territory. Sir Benjamin D'Urban came to the Cape as Governor with promised reforms in this direction, but he delayed his intended visit to the frontier until, on his arrival, the devastation of the Sixth Kaffir War was complete. This changed his views, and so convinced was D'Urban of the treachery of the Kaffirs that he put on one side the reforms which he had contemplated, and directed a counter-attack into Kaffir country. His report of the settlement made in May 1835 included the location of the friendly Tingoos as British subjects on one time Kaffir ground, but otherwise the rebellious chiefs and their people were to be driven and kept beyond a new boundary, the distant Kei River. However, unexpected difficulties arose in the course of carrying out this settlement and within six months the rebellious chiefs, instead of

being driven off the ground reserved for the Europeans, were allowed to remain. A September 1835 despatch from the Governor to the Secretary of State reported the settlement of Kaffirs on land conquered from them under general colonial laws enforced by military power ever at hand.

This settlement which took the place of the earlier one, so eagerly supported by the frontier colonists, was better in their eyes, than that which followed. A complete reversal involving the renunciation of this new territory, was ordered by Lord Glenelg, Secretary of State. He took this step under the influence of Dr Philip, in close communication with Exeter Hall, who supplied details of information not despatched, or long delayed, from official sources at the Cape. D'Urban was given a chance of standing by the policy he had adopted, but he seems to have disregarded it entirely. He himself brought about evacuation in February 1837, and the new province, Queen Adelaide, was left once more in the possession of the Kaffirs.

Not only were the frontier farmers fettered by the native policy of the Government, but those within the Colony met with many new obstructions. They needed a supply of cheap labour and hitherto the Hottentots and imported slaves had provided it. The Hottentots had never proved themselves to be satisfactory workers and the slaves had been introduced to the Colony to make up for their deficiencies. This practice had been continued to such an extent that the population of the Colony at the time of its second occupation by the British was estimated at 29,545 slaves, 20,000 Hottentots and 25,757 Europeans<sup>2</sup>.

All this was changed in 1815 when the British took command at the Cape. For the measures which the Governor adopted for the government of this large black population, he was responsible to the Secretary in State in England. The Secretary was but part of a Government which was taking a very humanitarian outlook upon its duties. The Cape, and other colonies supporting a slave population and unrestricted native labour, gave vent for its feelings. First of all the cause of slavery was taken up enthusiastically amongst philanthropic circles in England and the abolition of the slave trade was carried in 1807. The twenty thousand slaves left in the Cape Colony were probably treated well on the whole, for, though accusations were levied against the frontier farmers, many were not well founded. Legally the punishment of slaves was limited, their registration had been ordered, and the Governor was encouraging the opening of schools for slave children. Sir Charles Somerset extended his concern for their welfare in 1825 to permitting slaves to own property. Reports from England made it obvious that slave emancipation was bound to come, and the colonists, realising this, took up the cause as an instrument to force the grant of an assembly in return. Emancipation did come in 1833, and with it a clause providing for a four years' apprenticeship of the freed slaves to their former masters. In actual fact, therefore, the farmers lost little by emancipation. Where it was put forward as a cause of dissatisfaction, it was on the grounds of the status of equality which it brought for black and white, for the old colonists, backward owing to their isolation in the country districts, were not able to take the philanthropic view which held good in England.

The abolition of the slave trade put a limit to the supply of slave labour for the Cape and threw the farmers back to dependence on the Hottentots. By that time, however, missionary activities had been extended in the Colony, especially on the part of the London Missionary Society, to the support of the Hottentot cause. The headquarters of the London Missionary Society were in close communication with Parliament and had persuaded the House of Commons that the Hottentots were in need of better treatment. As a result, the farmers found that the Government took away the control of their remaining supply of labour and hedged it around with numerous restrictions. Thus, in 1809, the Governor put the Hottentots under the provision of colonial law, but at the same time his chief purpose was to maintain a satisfactory supply of Hottentot labour in the Colony. He introduced Pass laws restricting them to the districts in which they were employed though he also renewed the system of written contracts for their protection. In 1819 the Hottentots were bound down still more securely

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<sup>2</sup> Walker, E.A., A History of South Africa, p.144

to the soil by the legal apprenticeship of children to their masters. But a superintendent for the Colony was appointed by the London Missionary Society in the same year, one Dr John Philip, and nine or ten years of his influence directed the Government into cancelling these restrictive laws and giving the Hottentots civil equality. This was achieved by the Fiftieth Ordinance of 1828. The Law of Passes was swept away and likewise the power of the master to punish his own servants. Hottentots were given the right to purchase or possess land in the Colony. Written contracts were limited to twelve months and to be registered before a competent authority, while oral contracts only held good from month to month. The Ordinance also included reform of the existing laws of apprenticeship.

A large proportion of the Hottentots settled down to work under these new conditions on the farms, but many took advantage of their new freedom and increased the number of vagrants who were the cause of so much annoyance to the farmers. One of the first acts of the recently appointed Legislative Council, therefore, was to draft a Vagrancy Law, but Dr Philip put up strong opposition and it was promptly disallowed in London. An 1841 Ordinance, on the contrary, consolidated the existing laws for the protection of the labouring classes, and after that time there existed no legal distinction between the coloured and white inhabitants of the Cape.

Dissatisfied with the native policy of the Government with regard to their Hottentot and slave labourers, and despairing of proper consideration for themselves and security for their property on the eastern frontier, large bands of farmers trekked across the Orange River in search of a life free from such vacillating government interference. They found the land between the Orange and Vaal rivers and that south of the Tugela between the Drakensberg mountains and the sea, almost empty of inhabitants, owing to the tyranny of Hingiswayo & Chaka, powerful Zulu chiefs<sup>3</sup>. In time as they came into contact with the neighbouring tribes, the leaders of the little republican settlements drew up treaties with the chiefs acknowledging them as independent sovereign princes. When Retief led a later band of trekkers across the mountains into Natal, he was welcomed to all appearances by Dingaan, Chaka's successor, and given ratification of a grant of land between the Tugela and the Umzimvubu rivers, recently ceded to a group of British traders, and in return he was to recognise Dingaan as Chief of the Zulus and give him military support if he should need it. But Dingaan, probably suspecting treatment at the hands of the Boers such as the Matabele across the Vaal had suffered, proceeded to ensure his own safety by massacring Retief and all his followers. The district of Natal with its few surviving inhabitants was in danger of its life until Pretorius came from the settlement across the Orange river at the head of a rescue party. An expedition was also sent from the Cape, but it did not remain after the defeat of Dingaan. Ultimately Dingaan was killed, Panda, his half-brother, was installed as chief of the Zulus by Pretorius, and Natal settled down as senior partner with the other two Boer republics north of the Orange and Vaal.

As the danger of oppression within the Natal district at the hands of the Zulu chief had passed, native refugees began to pour in and so, from the start, the Volksraad had to face the immediate need of adopting a native policy. Total exclusion was impossible on account of the vast numbers and because the farmers needed cheap and plentiful labour, which the natives afforded. Any attempt to regulate the stream of incoming natives and restrict their numbers could not be attempted, for it would have made necessary the patrol of the whole length of the frontier. A native reserve was suggested on condition that the natives upheld Republican laws<sup>4</sup>, but this was likewise impracticable until the Republican police could enforce it, and was not attempted until the British took over control.

England had not recognised the independence of the Boer republics and still regarded the farmers as British subjects. The only attempt of the law to follow them beyond the boundaries of the Colony was

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<sup>3</sup> See Agar-Hamilton, J.A.J. , *The Native Policy of the Vootrekkers*, p.2. Also P.P. No. 95 in 1848. Smith to Grey, 10th February 1848. "The vast extent of territory in this part of the world totally devoid of inhabitants is incredible". Also P.P. No. 65 in 1848. Pottinger to Grey, 26th Hay 1847. Enclosure being the Report of the Land Commission. "The district previously comparatively a wilderness except for a few wandering fugitives".

<sup>4</sup> Agar Hamilton, *op.cit.*, p.36. Also Macmillan, W.M., *Bantu, Boer & Briton*, p.179.

contained in the Cape of Good Hope Punishment Act<sup>5</sup>, but that was of little effect. At all times it was emphasised that any further agreement as to the status of the Republicans must be based upon consideration and justice for the natives. The Boers would not come to terms on these conditions and in the end troops entered Natal to give support to Faku, a Pondo chief, [who had] been against the Boers. Lord Stanley, the Secretary of State, sanctioned this intervention for several reasons. He had been urged to do so in the commercial interests of the Cape<sup>6</sup>. He himself hoped that Port Natal would serve as a naval base, a hope founded on the appearance of an American and a Dutch ship in those waters. He also believed that intervention in Natal would facilitate peace on the eastern frontier of the Cape and above all he saw in it a chance to safeguard the welfare of the natives. Thus, after the occupation of the port by the troops, a Special Commissioner, Cloete, was despatched for the district and instructed to discuss questions of government with the farmers, but to countenance no colour bar, no encroachment on native lands and no slavery<sup>7</sup>. Whereupon many of the farmers again trekked away from the restrictions of British rule and re-joined their fellow republicans across the mountains.

This then was the position when Earl Grey became Secretary of State in England. British possessions in South Africa comprised Cape Colony and Natal, between which lay the hostile Kaffir tribes, north the Zulus and inland the two Boer Republics with their independence not recognised. Cape Town had proved itself a satisfactory naval port, but the same could hardly be claimed for Port Natal. A naval base in South Africa was a great asset to the Empire, but not a naval base like Cape Town, which had outbalanced its assets by the vast responsibilities which were brought with it. England could not be said to have benefitted materially by her connexion with the Cape Colony, in all its extent, and likewise the sister colony Natal, unless the trade of the two produced a revenue sufficient to provide for the expense of their administration, apart from the military costs which England was prepared to stand within recognised limits. It is true that imports and exports were both on the increase, that a definite advance in matters of finance was being made, in the Cape at any rate, but yet the House of Commons was confronted from time to time by bills on account of South Africa, which the Colonial Treasuries could not hope to pay. It was then that the public, as represented in the House, needed convincing of the value of its South African possessions. The following debate was typical of the attitude taken up when the costs of the colonies came up for discussion. "Of all our colonial possessions there were none which called for more anxious attention than that of the Cape of Good Hope. The possession of this colony had cost the country a vast expenditure in maintenance of forces by land and sea; and what had been the equivalent gained? It brought us no profit, nor any reasonable prospect of it; on the contrary its value as a colony had greatly diminished. It was exceedingly doubtful whether it was worth retaining at all, but certainly not at the present cost"<sup>8</sup>. The Chancellor of the Exchequer had put forward an application for £1,000,000 to cover the cost of the late Kaffir war.

There is little wonder that Earl Grey found the House of Commons hard to convince, when he needed support for the retention of the South African colonies, basing his argument in their favour, as he did, on the grounds of the welfare of the natives. It was one thing to advocate their welfare in theory as England had done during the 1830s, but another matter altogether to face the costs of repeated native wars in the hopes of their ultimate conversion. If the colonies could not be abandoned altogether on account of her duty towards those of her subjects who had made their homes there so recently, then public opinion was clearly in favour of granting parliamentary institutions to the Cape as quickly as possible in order that England might transfer her responsibilities. Grey, however, was concerned too deeply with the problems of native policy to transfer those responsibilities to hands not yet ready for their care.

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<sup>5</sup> Saving the sovereignty of the tribes or rulers, the Cape laws were applicable to offences committed by any of Her Majesty's subjects in territory adjacent to the Colony, south of 25°.

<sup>6</sup> Walker, *op.cit.*, p.203

<sup>7</sup> Walker, *op.cit.*, p.229

<sup>8</sup> Hansard XCVI, 25th November 1848. Speech by Mr Bankes.

The natives whose care England took over from the Dutch formed three distinct classes. The oldest inhabitants, the Bushmen, to a very large extent had suffered extermination by the Hottentots. Those who escaped death in the Cape had fled inland where, in many cases, a different fate awaited them. The Hottentots were too well settled in the district to attempt flight. They lacked the military organisation of the Bantu and were not sufficiently determined in character to offer resistance. Consequently they gave way and remained amongst the European settlers, affording them labour along with the imported slaves. Conditions of their labour were examined and regulated by ordinance and after 1841 there was no distinction in the eyes of the law between Europeans and Hottentots. Their earlier contact with civilisation probably set them above the level of the Bantu. Sir Harry Smith estimated their abilities very highly when he first made their acquaintance as he served as military commander under Sir Benjamin D'Urban. "It is scarcely to be credited", he wrote, "how rapidly these men trained as soldiers. No nation in the world, with the exception of the inhabitants of the south of France, have such a natural turn to become soldiers as these Hottentots"<sup>9</sup>. But he was to be bitterly disappointed later when a whole Hottentot settlement in the Kat River district and a body of Cape Mounted Police deserted, hoping to gain more for themselves with the Kaffirs than they actually possessed with the Europeans.

The third class of natives with whom the British Government came into contact and opposition were latecomers to the Cape. The Bantu, as a mass of tribes, had moved gradually southwards from an area of concentration somewhere near Lake Albert. The advance tribes, the Kaffirs, or Ama-Xosa, met the frontier farmers on the eastern frontier of the Cape in the late eighteenth century. The Ama-Zulu, settling in and north of the Natal district, met the Voortrekkers in the 1830s. The Basuto proved themselves worthier neighbours to the Grange River Republic under their excellent chief Moshesh. Little account was heard of the Bechuanas, except in missionary reports, until the second half of the nineteenth century, when the mineral wealth of the country made necessary the development of communication through their lands<sup>10</sup>.

Early contact with the Kaffirs and Zulus on the Cape and Natal frontiers showed the Government that it had more to fear from them than from the Hottentots within the Colony. The Bantu were cattle farmers and agriculturalists to the extent of small patches of maize and kaffir corn cultivated round their kraals by the women folk. For this purpose they settled in a district and used the land until, in five or six years' time, it was exhausted. They moved on. Individuals in no way owned their land. They were allowed its use for grazing their cattle, the only personal property they possessed. They were organised in tribes round the person of a chief, not according to territory, and scattered themselves under headmen in kraals around that of their chief, except in time of war or drought, when they drew together for common safety.

Over each group of tribes there was a paramount chief. The Government treated him as representative of the whole of the tribes and often an agreement drawn up between the two parties fell to pieces because the paramount chief assumed powers not attached to his position or failed to enforce respect as such from the lesser chiefs. The Bantu seem to have been very strongly attached to their chiefs, honest in their own way and easily governed. Only extreme oppression would lead them to desert from the tribe and seek protection elsewhere. Theophilus Shepstone, who spent his early years with his father, a missionary, amongst the natives and many years later in an official capacity in Natal, spoke of them as being "very strongly attached to the powers exercised or vested in the chiefs and much more so when the chief was hereditary"<sup>11</sup>. "They pretend" he wrote on an earlier occasion, "to no individual opinion of their own and are guided in every respect by the will of their legally-constituted

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<sup>9</sup> Autobiography of Sir Harry Smith, January 1835, p383

<sup>10</sup> For this grouping of the Bantu tribes see Macmillan, BBB, Chap II.

<sup>11</sup> 1852-3 Natal Native Affairs Commission. Evidence given by Shepstone in answer to Qn. 131, 25th November 1852.



superiors"<sup>12</sup>. He also describes them, Kaffirs and Zulus alike, as bloodthirsty, treacherous and superstitious, and rates the Kaffirs on the eastern frontier as more dangerous than the Zulus in Natal, possessing a higher moral and intellectual standard. Sir Harry Smith found by experience that they had an excellent understanding as regards the present; but he only met one chief who had any appreciation of the effect of past measures on the present and past and present measures on the future<sup>13</sup>.

Their religion led the natives to be superstitious. They had nothing more definite than a very vague notion of a great original whom they called Umkulunkulu (the Great Great). They certainly believed in the existence of spirits who had effect on material things and this gave infinite scope to a clever chief in its abuse. Witchcraft was one of the first of native customs to be attacked by the Europeans.

Bantu law was a thing of tradition, never written, administered by the chief and his councillors, and there was also a gathering of the men of the tribe<sup>14</sup>. Punishment for violation of the law took the form of death or cattle fine. The government has been regarded as a pure military despotism, but this is more probably true to exception than to rule. The despotic and sanguinary rule of the Zulu chief, Panda, was not typical, nor would anyone having lived among the native Kraals agree with the following condemnation of native law. "I soon discovered that might was right, that the damnable forgery of sorcery and witchcraft was the primum of oppression and extortion and that under the cloak of punishment for this offence there was committed oppression of so barbarous and tyrannical a kind that beings endowed with reason could perpetrate on each other"<sup>15</sup>.

The condition of the native tribes in and north of the district of Natal at the time of British annexation needs special account. At one time Chaka, the son of the Zulu chief, was driven as a child from his country and adopted by Hingiswayo, the chief of a neighbouring tribe. With his support Chaka was able to win back his position in Zululand and succeeded his father as chief and later, as successor to Hingiswayo, consolidated his position at the head of a powerful tribe. To his sovereignty he added, in the course of the early nineteenth century, the Natal tribes, incorporating all but the Fingaes. This was certainly pure military despotism and accounted for the devastated districts of Natal which Chaka ceded to British traders in exchange for a sum of money. The oppressed tribes of Zululand saw at once a place of refuge there. Between 1827 and 1836 a number of fugitives approaching one thousand left Chaka to seek protection under the "English chiefs". Chaka gained by confiscating their cattle according to custom. The next two years saw those fugitives increase ten times, still an honest, obedient and easily-governed people<sup>16</sup>. Dingaan in 1839 murdered and took the place of his half-brother. After his massacre of the trekkers under Retief, he suffered a similar end at the hands of his younger half-brother, Panda, at the instigation of the Boers. Panda was then recognised as chief of the Zulus. At this point, 1840, the native refugees and those who had remained in Natal in spite of tyranny had increased to the number of twenty to thirty thousand, while the republicans were estimated at six thousand. In 1848 Cloete, then the Public Recorder of the Colony, held the native population of the district of Natal to be thirteen to fourteen thousand aboriginals<sup>17</sup> in a total of one hundred thousand. Of these possibly

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<sup>12</sup> PP No. 9 in 1850, Subenclosure 5 to Enclosure 7. Shepstone to Secretary of Government Natal, 24th April 1846.

<sup>13</sup> Autobiography of Sir Harry Smith, p431.

<sup>14</sup> See Macmillan, BBB pll.

<sup>15</sup> Autobiography of Sir Harry Smith, p432

<sup>16</sup> These figures are taken from the Report of the 1852-3 Natal Native Affairs Commission, 26th October 1853.

<sup>17</sup> PP No 9 in 1850, Subenclosure 4 to Enclosure 7. Cloete to Secretary of Government Natal, 10th August 1848. "The remnants of the aboriginal tribes which were found in this district upon the first arrival of the Dutch emigrant farmers in 1838, might be estimated at about 3,000 souls... Upon my further explorations of the district in the year 1844, I however found that the number above mentioned only applied to the population in the vicinity of the Bay of Natal and the coastline, but that there were several petty tribes settled along the Drakensberg range, who had remained on their lands without any interference from emigrant farmers, but who, however, kept little or no communication with them. These were ranged under petty chiefs and together with another old man may be considered the only aboriginal tribes of this district.... The number of these tribes may be estimated at about 10,000 souls, so that up to the time of my arrival in this

sixty or seventy thousand had no chief<sup>18</sup>, while the lesser chiefs who had fled along with their tribes were probably already losing their power as they fell under the influence of the laws of the district. Meanwhile over the Tugela lay Panda's tribes, equally numerous and restless as they heard of the better lot of those who had left. Panda, naturally jealous of the subjects he had lost and fearful of the further dwindling of his power, attempted to make sure of what remained by a greater oppression than before.

There had been no real constructive native policy in Natal before Earl Grey as Secretary of State assumed control of colonial affairs [in 1846]. The trekkers carried out a consistent policy in theory, one which was based on three principles. There was to be no taking away of native children illegally; in the matter of master and servant, every master was to have the right to maintain discipline properly amongst his servants; and no natives were to be allowed to take up residence near any towns or on land to the detriment of any of the inhabitants of the towns without permission from the Volksraad<sup>19</sup>. In other words the farmers were concerned with the natives as labourers and no more. But they found that they were not able to dismiss the problems arising from the increasing numbers of natives within the district so easily, natives whom they had forbidden to enter. Therefore a proposal was put before a meeting of the Volksraad to remove the natives to the confines of one reserve along the coast north of the Umzimubu river. The Commandant-General was asked to put this proposal before a meeting of the chiefs with its explanation and, having effected the removal, to appoint a 'resident' or 'upper chief' who should supervise the continued control of the chiefs<sup>20</sup>. However, the proposal had gone no further when Cloete arrived as British Commissioner. The proclamation of Sir George Napier, Governor at the Cape, which attended the appointment of the Commissioner was equally negative in its clauses with regard to the natives<sup>21</sup>. It provided first that there should not be in the eyes of the law any distinction of persons or disqualification founded on mere distinction of colour, origin, language or creed; but that the protection of the law, in letter and in substance, should be extended impartially to all alike; second, that no aggression should be sanctioned upon the natives residing beyond the limits of the colony, under any plea whatever, by any private person or any body of men, unless acting under the immediate authority and orders of the Government.

Earl Grey, then, had beyond these two props, as it were, nothing in his way for the construction of a native policy, except perhaps its pressing need. He prepared the ground by making quite clear the reasons for which he upheld England's continued connection with the Cape. The most obvious reason he did not emphasise until he was on the point of leaving office [in 1852]<sup>22</sup>, but he implied it from the first, namely, the duty of Britain to give military support to her subjects, who had recently made their homes in the colony. This argument he followed up by the force he put on the duty, the moral duty again, of Britain towards the native races in South Africa who had come to rely on her protection<sup>23</sup>. He linked this up with the former argument, showing that he did not expect that the British colonists were

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country as Commissioner, 13,000 or 14,000 persons may be said to have been within this district entitled to be considered as "aboriginal inhabitants"

<sup>18</sup> PP No 9 in 1850. Subenclosure 4 to Enclose 7. Cloete to Secretary of Government Natal, 10th August 1848. "I am confident that under these circumstances their number of 100,000 ascribed in round numbers to the black population within this district, is by no means over-estimated, but from this state of affairs, it also follows, that by far the largest majority of their numbers are not subject to any native chief whatever; that parties, as they come in, at once seek protection at the nearest Kraal which affords them a friendly reception, so that there are at least 60,000 or 70,000 who have no acknowledged chief whatever, but look to the white man for their safety, and at one yield a willing and ready obedience to his laws and commands."

<sup>19</sup> See Nos. 28, 29 + 33 of the Thirty Three Articles. Eybers, G.W., *Select Constitutional Documents*, p356

<sup>20</sup> See Agar-Hamilton op. cit. Ch.III.

<sup>21</sup> Proclamation of Napier, 12th May 1843. Clause IV. Bell 6 Morrell, *British Colonial Policy*, p497.

<sup>22</sup> PP No. 33 Grey to Cathcart, 2nd February 1852s quoted in Bell & Morrell, p528. Also Earl Grey, *The Colonial Policy of the Administration of Lord J Russell*, Vol. II, p249.

<sup>23</sup> PP No. 41 in 1848, Grey to Pottinger, 4th December 1846.

not able to protect themselves, but that their self-defence would ultimately involve the extermination of the natives in contact with them<sup>24</sup>. At the same time the withdrawal of British control would lead to the resumption of inter-tribal strife or renewed tyranny by the powerful Zulu chiefs with a similar result. Even if that did not come about as he expected, and in this he was supported by the Lieutenant Governor of Natal<sup>25</sup>, he believed that the Boers would extend their former oppression of the natives. More optimistically, Grey concluded his defence of the colonies, expressing the hope that these native colonies would become centres of civilisation and Christianity with advantage to those districts as yet untouched, and in their converted state, add a source of strength to the empire, and open up new fields for commercial enterprise<sup>26</sup>.

One or two outstanding despatches, containing instructions to the Governor at the Cape, furnish a clear account of the general principles on which Earl Grey based the details of his native policy. By way of preface, with frequent emphasis, there stand out two warnings. The colonies were being maintained for the benefit of the colonists in South Africa and on that account, as in India, the expenses of the colonies must fall on the colonial, not the imperial, treasury. This was accompanied by the guarantee that the proceeds of the colonial revenue would be entirely devoted to local expenditure<sup>27</sup>. At the same time Earl Grey made it clear that on no account must questions of native policy involve avoidable expansion<sup>28</sup>.

The ultimate aim of Grey's policy was amalgamation in the sense that living in peace and harmony side by side, the moral superiority of the white man should combine with the physical strength of the native to produce the best results for their mutual good<sup>29</sup>. To accomplish this, a necessary preliminary was peace amongst the native tribes, in order that the benefits of religion, education and commerce might follow. His earlier letters make it clear that he was in no hurry to see his end in sight, but was rather prepared to work gradually to make sure of his ground. He fully realised that the laws of Europeans could not be applied to a native community without first the removal of all native customs which were repugnant to the recognised standards of European law. Therefore British control rather than administration, was to be exerted by a European magistrate working through the chiefs, maintaining native usages as far as that could reasonably be done. This assertion of control had as its complement the missionaries working from their mission centres, for which Grey was prepared to consider government support, because he believed that Christianity was necessary to civilisation<sup>30</sup>. A further incentive to civilisation included in his programme was the levying of native taxes as stimulants to industry "rendering mere subsistence difficult to be obtained without exertion"<sup>31</sup>. In addition, mechanical arts and industries were to be encouraged at the expense of customary pastoral industries, with instruction in the same in schools and in the fields<sup>32</sup>. The use of the English medium supplanted the native tongues. Even the lack of European clothing met with a fine in the neighbourhood of villages and on public occasions<sup>33</sup>.

That Earl Grey entered office [in 1846] with these principles already clearly developed in his mind seems quite certain. They were the result of a long and careful study of colonial affairs from many sources, including, no doubt, the experience of his predecessors, the pieces of information he had

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<sup>24</sup> Earl Grey, *op. cit.* Vol. III p253.

<sup>25</sup> PP No. 36 in 1848, Enclosure. West to Maitland, 27th April 1846.

<sup>26</sup> PP No. 41 in 1848, Grey to Pottinger, 4th December 1846.

<sup>27</sup> PP No. 12 in 1850. Grey to Smith, 30th November 1849.

<sup>28</sup> PP No. 1 in 1848, Grey to Pottinger, 2nd November 1846. Kaffir Tribes .

<sup>29</sup> PP No. 3 in 1854. Grey to Smith, 3rd December 1851.

<sup>30</sup> PP No. 66 in 1848. Grey to Smith, 10th December 1847.

<sup>31</sup> PP No. 95 in 1848. Grey to Smith, 19th June 1848.

<sup>32</sup> PP No. 12 in 1850. Grey to Smith, 30th November 1849.

<sup>33</sup> PP No. 66 in 1848. Grey to Smith, 10th December 1847.

picked up first hand from men who had served in or visited the colonies, recorded Parliamentary debates - a scanty source - in addition to all the printed matter available. Yet his success was only partly due to this early-acquired intimacy with his subject. It was of greater significance that his knowledge of the colonies grew steadily along lines directed by actual experience in the application of his theories. This involved the handling of more than his own ideas. Early despatches outlining his own proposals almost invariably invited criticism and suggestion. Both came readily and always received the attention of the Secretary of State. Details of his policy, therefore, changed from time to time according to circumstance, but on the whole his principles in 1852 differed very little from those he held in 1846.

This natural development of policy according to necessities arising during the course of application was accompanied by profounder changes which Earl Grey foresaw and planned. He at all times made it clear that the end of his policy was the amalgamation of the native and European communities under conditions of European civilisation to which level the natives would have to be raised. Yet he realised from the beginning that a change involving so much must also be gradual, the work of more than one generation, and he impressed this very carefully upon those men under whose direction the change would begin. He wrote, for instance, to the Governor: "The great aim of our policy ought to be the amalgamation of the different races and although this can only take place very slowly and must be looked for as an object of distance attainment, every measure which is adopted should be directed towards this as the end ultimately to be effected"<sup>34</sup>. The scheme of native government evolved under the direction of Earl Grey covered only a few steps in this direction. During five years of his office, this advance seemed definite, or so he was led to believe from the optimistic reports he received from Sir Harry Smith. Then the 1851 Kaffir War broke out and Natal, it is true, held fast from participation in that rebellion, but scares at several points in the district showed up weaknesses in the method of government which had promised entire success. This discovery came as a great disappointment to Grey and coupled with the breakdown of the government in British Kaffraria and the need for imminent withdrawal of British control from the Orange River Sovereignty, was enough to make total failure seem only too apparent to the Colonial Office as well as its critics. But Earl Grey could not believe that he was wrong in the policy which he had adopted to achieve his goal, and was prepared, when he left office, to revise that policy in certain parts and regard the 1851 war and its troubles as a temporary setback which was only to be expected and one that would probably occur again before that complete amalgamation was perfect in its details<sup>35</sup>.

In the construction of the original scheme of native policy Earl Grey paid attention, in particular, to details of military and civil administration and above all to the expenses of government.

The question of military affairs was first raised as an urgent matter by Lieutenant-Governor West when he advised the extension of the military force in Natal. He based his proposal on the grounds of the increasing number of refugee natives living in the district, where chiefs commanded from five hundred to a thousand combatants, and the small and scattered white population whose lack of confidence in the Government was causing them to remove from Natal. More vital to the interests of Earl Grey, he declared that unless effectual control was to be exercised over the natives, they would relapse into desolating wars of extermination and lose that hoped-for advance in civilisation whereby they would spread an important and beneficial influence to a great distance in the interior of Africa<sup>36</sup>. Grey answered this appeal by proposing to make use of the native tribes, who had sought refuge in the colony, as a sort of rough militia. Those natives who possessed arms were to serve under their own chiefs whenever called upon by the Lieutenant-Governor, being allowed to occupy lands allotted to them in return. Further, this native militia was to be kept in due sub-ordination and supplemented by a

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<sup>34</sup> PP No. 3 in 1854. Grey to Smith, 3rd December 1851.

<sup>35</sup> PP No. 33. Grey to Cathcart, 2nd February 1852. Quoted in Bell & Morrell, *British Colonial Policy*, P528.

<sup>36</sup> PP No. 36 in 1848, Enclosure. West To Maitland, 11th April 1846.

more regular force of cavalry, consisting again of natives, but this time officered by Europeans<sup>37</sup>. He persistently argued the sufficiency of this force in face of direct criticism from Natal. In April 1847 the Lieutenant-Governor acknowledged the value of the natives for a temporary purpose under good control, but he doubted their success in view of any opposition from the emigrant Boers<sup>38</sup>. Three months later the Lieutenant in command of the Royal Engineers supported the Lieutenant-Governor's views, for he declared that the district force was wholly inadequate for any offensive operation, because he did not believe that the natives had yet been sufficiently under control to be looked to with any confidence<sup>39</sup>. Colonel Mackinnon, after many years of experience in native wars, repeated the same argument. He wrote, shortly after the close of war, "When the composition of the force which I had under my command is borne in mind, the greater part being of inexperienced Hottentots from the Western district (of the Cape) with only a small portion of British troops, it is in my opinion far less a matter of surprise that so little was effected than that disaster was not positively incurred. Later in the day, when several stalwart British regiments were added to the force, the task of overcoming the resistance of the enemy became comparatively easy"<sup>40</sup>.

A year or more later, however, the organisation of the native military force was still proceeding according to instructions from England, and an additional native police force of one hundred men had been formed, to be placed, in July 1849, under the captaincy of the Diplomatic Agent, Shepstone. Grey had stuck to his point, but he proved to be in the wrong. The disturbances on the eastern frontier in 1851 agitated the native police in Natal so much that, on Shepstone's recommendation, Lieutenant-Governor Pine disbanded the whole force and explained his step to the Cape Governor with this argument. "Although we are justified, in certain circumstances, in employing the natives enjoying the protection of Her Majesty's Government in defending Her Authority with their own weapons and mode of warfare, yet I am sure our Excellency will agree with me as to the extreme impolicy of aiming or training them according to our military system"<sup>41</sup>. On receipt of this communication the Secretary of State did not admit himself to have been mistaken in the value he had attached to a native force. He acknowledged that the intrigues on the eastern frontier had shown the necessity of limiting such a force as indeed he had ordered in 1848<sup>42</sup>. He suggested that some European non-commissioned officers might have been added to the native force with other precautions for their loyalty. Yet he still maintained that the natives were one of the best means the district possessed of keeping order, and feared that their disbandment would lead the natives to believe that they were an object of suspicion and apprehension to the colonists and the Government, and therefore increase their disaffection. However, since the step had been taken, Grey pressed the point no further<sup>43</sup>.

The attitude which the Secretary of State had adopted towards the share of the natives in the defence of the colony can be explained in two ways. First and foremost, Earl Grey firmly believed that the natives could afford a satisfactory military force for the defence of the colony, if they were officered by Europeans. This idea was still very new and its introduction in Natal underwent severe criticism from experienced authorities. The events of the 1851 Kaffir War seemed to prove its failure. Yet the practice has been extensively adopted in recent years and success has justified its early experiment. Then Grey not only believed that the natives could contribute towards the defence of the colony, but he declared that they ought to share this burden on the principle that they enjoyed the protection of the British Government. He was unquestionably right in taking that stand, and particularly in Natal where the natives had put themselves voluntarily under the control of the Government for protection against

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<sup>37</sup> PP No. 41 in 1848. Grey to Pottinger, 4th December 1846.

<sup>38</sup> PP No. 65 in 1848, Enclosure. West to Pottinger, 22nd April 1847.

<sup>39</sup> PP No. 82 in 1848, Enclosure. Lieutenant Gibb, 20th July 1847.

<sup>40</sup> Godlonton MSS. Colonel Mackinnon to Godlonton, editor of Grahamstown Journal, 31st August 1852.

<sup>41</sup> PP No. 3 in 1854. Pine to Smith, 4th July 1851.

<sup>42</sup> PP No. 2 in 1849. Grey to Smith, 26th September 1848.

<sup>43</sup> PP No. 3 in 1854. Grey to Smith, 3rd December 1851.



their oppressors. Earl Grey proposed the inclusion of the natives in the colonial defence force on these two grounds, but at the same time there is no doubt that he would have reinforced that Natal native militia considerably more with European contingents, and thus prevented its breakdown in the 1851 war. But the expense of such a proceeding would have fallen as it was bound to do in those early days, on the Imperial War Chest and that was already strained by bills drawn upon it to cover the cost of the dispatch of European regiments to the eastern frontier of the Cape Colony.

This matter of defence was given precedence by the Secretary of State because of its urgency, but, when likelihood of peace had been established, Earl Grey was more deeply concerned with the development of civil government for the natives, by means of which, rather than by dependence upon mere force, peace would be maintained. Before he drafted any proposals on this subject, he received a despatch from Sir Henry Pottinger, the Governor of the Cape in 1847, enclosing the Report of a commission which had been investigating the question of locating the natives in the district<sup>44</sup>. The Report, coming when it did, furnished Earl Grey with many useful facts and contained certain proposals which he largely confirmed and put into effect as far as the Natal Treasury would allow. The Commissioners were Messrs W Stanger, J Shepstone, C J Gibb, N Adams and D Lindley, criticised in a later report as not being settlers of experience nor owners of landed property, but two Government officials, one military man and two foreign missionaries respectively<sup>45</sup>. Whatever their standing in the Colony, and it would have been difficult to find a body of experienced settler or property owners more capable, the report of the Commissioners reached the Colonial Office and was very carefully analysed there.

After a detailed account of the white and black population and the conditions as then experienced by each, the Report proceeded to put forward a sketch of the proposals which were considered expedient and practicable. The Commissioners proposed to leave the natives in the locations which they had formed automatically as they entered the district. Previously the refugee locations had consisted partly of vast numbers acknowledging no authority to any chief and partly of tribes whose chiefs had also taken flight. The authority of these chiefs had almost disappeared, while, up to that time, little regard was being paid to the law which had been proclaimed in the Colony. The Report suggested, therefore, the appointment of a superintendent or resident agent of the Government to each location, furnished with one or more assistants according to the size of the locations<sup>46</sup>. Much depended upon the choice of the right man for these posts, men of high moral standing, sound judgement and strength of will, conversant, if possible, with the language of the natives. Upon each location, a native police force was to be established under a European police officer. The duties of the superintendents included the punishment of minor criminal offences committed by the natives and decision upon certain civil disputes to a stated amount, after which there should be sight of appeal to the Diplomatic Agent. In these duties it was proposed that the principal chiefs and councillors in each location would act as a sort of jury. The magistrates were also to make a register of all the natives in the location, together with the number of cattle possessed and owned by each individual: also the register of all removals in and out of the location with details, furnishing a passport forwarding the details to the superintendent of the location to which the removal was being made: and finally a register of the contracts, made under the superintendent's control, between master and servant.

In administering the government of the location, the Commissioners proposed that the superintendent should conform as much to native law as was compatible with the principle of British law, until by

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<sup>44</sup> PP No. 65 in 1848, Enclosure. Report of 1847 Natal . Native Commission I.

<sup>45</sup> 1852-3 Natal Native Affairs Commission, P9.

<sup>46</sup> This proposal had originally been contained on very much the same lines in a memorandum addressed by Shepstone to the Secretary of Government, Natal. He had suggested the restriction of the locations to 8,000 to 12,000 natives, each under the immediate supervision of a European functionary, whose jurisdiction might extend to all civil cases subject to appeal. He was to be assisted by a jury of chiefs and councillors and with their help, compile a register of the population of the district. See PP No. 9 in 1850, Subenclosure 5 to Enclose 7. Shepstone 26th April 1846.

degrees the whole might be brought under the latter code. They declared that they were of opinion that it would be productive of no good result suddenly to abrogate the laws and usages the natives had practised from time immemorial, except such as were connected with their ideas of witchcraft and those which threatened death to the accused.

The Report drew attention to the need for the natives to acquire other wealth than merely livestock, wealth of cotton or some such perennial plant which would attach them to the soil. All possessors of fire-arms were to be registered and all traders to travel in the location only with the consent of the superintendent. A weekly report of all happenings was to be forwarded by the superintendent to the Diplomatic Agent at Pietermaritzburg.

Every encouragement, the Commissioners urged, should be given to the establishment of an adequate number of missions and schools in each location, for successful government and efficient control depended a great deal upon the moral and intellectual improvement of the natives. To this end they recommended a suitable annual grant from the Government, whereby there might also be established in each location a model mechanical school under the direct control and management of the Government.

The Government ought also to open up and control good roads connecting the locations with the main roads, and above all define accurately the extent of each location. The Report proposed that the lands thus set on one side for the use of the natives should not be transferred to them with individual rights, but vested in the hands of trustees for their use, until they were educated to the idea of property in land. These trustees might be selected from the Executive Council, and include some of the principal officers of government.

There arose finally the question of the expense of such a system of government. The Commissioners acknowledged that it would appear unduly heavy, but they urged that the success of the system depended absolutely upon its immediate execution in every particular. But once the expense of inauguration was over, they predicted a future in which the native locations as centres of industry would consume imported articles and produce articles of export and in time, with a judicious system of taxation, defray the expenses of their own establishments and furnish an excess to the treasury of the district.

After studying the report of the Commissioners for locating the natives, Earl Grey paid tribute to its clear analysis of the state of the Natal natives and its very able proposals, but he at once discountenanced the scheme which depended for its execution upon the Imperial Treasury. It was impossible, according to the Report, to bring the native locations under the regular administration of justice according to British law without the immediate provision of a civil establishment costing more than the Colony could provide. Grey asked at once for an estimate of costs from the Commissioners before he dismissed the scheme, but he knew, without that estimate, that it would exceed the revenue of the district. He proposed in the meanwhile that the difficulty should be met by abstaining from any sudden or violent interference with the authority exercised over the natives by their own chiefs. At the same time, some control should be very sparingly exercised over the power of the chiefs, prohibiting them, for example, from inflicting capital punishment. By degrees, as the means of the colonial government of maintaining a larger and more effective establishment increased, and as the natives themselves become more familiar with the ideas and habits of civilised life and, he hoped, with the precepts of Christianity, a greater degree of interference might be exercised and a regular administration of law ultimately introduced<sup>47</sup>.

This proposal, which was dispatched privately to Sir Harry Smith late in 1847, was embodied in March 1848 in a copy of the Royal Instructions. The Governor was ordered "to make known by Proclamation to our loving subjects and all other persons residing in the said district (Natal), that in assuming the

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<sup>47</sup> PP No. 66 in 1848. Grey to Smith, 10th December 1847.

sovereignty thereof, we have not interfered with or abrogated any law, custom, or usage prevailing among the inhabitants previously to the assertion of our sovereignty over the said district except so far as the same may be repugnant to the general principles of humanity recognised throughout the whole civilised world, and that we have not interfered with or abrogated the powers which the laws, customs and usages of the inhabitants vested in the said chiefs, or in any other persons in authority among them; but that, in all transactions between themselves, and in all crimes committed by any of them against the person or property of any of them, the said natives are subject to the conditions already stated, to administer justice towards each other as they had been used to do in former times. Provided nevertheless, and we do hereby reserve to ourselves full power and authority from time to time, as we shall see occasion, to amend the laws of the said natives and to provide for the better administration of justice among them as may be found practicable"<sup>48</sup>.

A certain similarity can be traced through these Royal Instructions and the report of the Native Commissioners, which was probably largely the work of the Diplomatic Agent, Shepstone. The superintendent proposed in the Report was to have conformed as much to native law as was compatible with the principle of British laws. This was but another way of expressing the non-interference with or abrogation of "any law, custom, or usage prevailing among the inhabitants: except so far as the same may be ..... repugnant to the general principles of humanity recognised throughout the whole civilised world". The Report nowhere suggested the withdrawal of power from the chiefs, but supplied a superintendent who should carry on government through the agency of the chiefs, or directly where no chiefs existed. Grey's instructions, on the other hand, left the government of the natives in the hands of their chiefs, or their substitutes, subject to no control but the guidance of general principles of humanity. It was not clear who was to interpret those several principles to the native chiefs. The Commissioners had interwoven that duty with the administrative work of the superintendent as he acted through the chiefs.

Immediate dissatisfaction was shown following the receipt of the Royal Instructions. The Public Recorder, Cloete, and the Diplomatic Agent, Shepstone, were requested to make an exhaustive examination of the government as it existed and report upon the probable effect of the Proclamation. Their reports agreed on the satisfactory working of the existing system, based on the establishment of Roman-Dutch law for the whole district by the Ordinance of 1845. Cloete even went so far as to say, "The internal quiet of this district is thus placed on a footing which it is impossible to conceive any human legislature or interference can improve or ameliorate, and I should beg further to add, that I do not believe there exists at the present moment within any of Her Majesty's dominions, any race of human beings who enjoy a greater share of ease, competence and everything that is conducive to their happiness and contentment, than is enjoyed by the natives of present settled within this district"<sup>49</sup>.

Shepstone, in more moderate tone, considered the existing system to be the only safe and efficient principle that could be adopted, but there is no doubt that he regarded that system in the light of their own laws administered to the natives by the Diplomatic Agent through their chiefs, as far as a native agency existed and directly where it did not. He had, during his years of experience, realised the impossibility of the direct application of Roman-Dutch laws to the natives.

In suggesting the probable effect of the Proclamation of the Royal Instructions on the district, Cloete raised three points. In the minds of the emigrant farmers and white inhabitants generally there would be a feeling that the natives were subject to laws and regulations securing them to greater rights and privileges than were possessed by the generality of inhabitants. He believed, too, that the natives and particularly the petty chiefs would become impressed with the belief that Her Majesty intended to acknowledge their complete independence from all British laws. Shepstone anticipated a similar result by which dangerous powers would be restored to the independent chiefs and their former tyranny

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<sup>48</sup> PP No. 94 in 1848. Grey to Smith, 16th March 1848.

<sup>49</sup> PP No. 9 in 1850, Sub-enclosure 4 to Enclosure 7. Cloete to the Secretary of Government Natal, 10th August 1848.

resumed, leading the natives to desert the locations and flee to the neighbouring farms. Cloete feared that the disastrous effect of the Proclamation on the farmers and the natives would culminate in the destruction of the magisterial authority and prestige of the Diplomatic Agent along with that entire confidence in the Government, its laws and institutions, which he had so successfully implanted in the minds of the natives.

Both the officials, independently of each other, put forward almost the same proposal. If the promulgation of the Instructions was necessary, then Cloete advised modification whereby the Proclamation should be limited to localities where no amalgamation of the native with the white man and his habits and usages had taken place, and more particularly where there were chiefs whose authority was really recognised among a considerable number of natives. This limited Proclamation then depended on the clear definition of the names of the chiefs so set in authority and the limits within which their authority held sway. Shepstone held to the same conditions, but even then he was not prepared to give uncontrolled authority to the chiefs. He reserved the right of amending the native laws as from time to time seemed necessary or desirable in order to preserve for the Government the supreme prerogative which the chiefs had already voluntarily transferred. He also advocated, after the manner of the report of the Commissioners for locating the natives, that each location should be controlled by a Government officer through whom the chiefs were to be accountable to the Government. The same officer was to command the native forces so that, in time of trouble, there would be a united command instead of division under a number of independent chiefs. Finally the moment the natives left the locations to which they belonged and entered the service of a colonist, then they automatically became amenable to the laws and responsible to the magistrates of the district.

The Governor forwarded these memoranda to the Colonial Office and pointed out that the Royal Instructions were inconsistent with the 1845 Ordinance which had established Roman-Dutch law for the district<sup>50</sup>. Meanwhile he authorised the suspension of the Proclamation until he should receive further instructions. Earl Grey, without any question, wrote approval of this step and reported that he had advised Her Majesty, for reasons of policy assigned by local authorities, to issue an additional instruction revoking the disputed clause of the Royal Instructions<sup>51</sup>. At the same time he suggested that a proposal be put in front of the Legislative Council of Natal to pass an ordinance qualifying the effect of the 1845 Ordinance by maintaining as far as it could safely be done, the native habits and usages, either within certain defined local limits, or else in all transactions of the natives with each other, reserving again the right of amending the laws thus maintained. He seconded Shepstone's suggestion in that a native, leaving his location, should be amenable to the general law of the district, and stipulated further that he should not go without a pass, and that all be distinguished by a plate or medal with the number of the station to which they belong. In July 1850 the additional Royal Instructions were despatched from the Colonial Office and included confirmation of the Ordinance of 1849 which had been enacted, on the advice of the Secretary of State, by Lieutenant Governor of Natal with the advice and consent of his Legislative Council. The clauses of the 1845 Ordinance and all other contradictory ordinances were there and then repealed. Briefly according to the Ordinance of 1849, ratified by the additional Royal Instructions of 1850, it was enacted that the Lieutenant-Governor should appoint magistrates to control, revise and direct the administration of justice according to native law. Fines and forfeitures previously paid to the chiefs were to be paid into the district Treasury. Appeal could be made from the native courts, over which the magistrates presided, to the Lieutenant-Governor acting with the advice of the Executive Council. The Lieutenant-Governor, in future, was also to hold the power and authority previously enjoyed by the paramount chiefs, with power to appoint

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<sup>50</sup> It appeared later that the Governor was wrong. The Royal Instructions were issued with the advice of the Privy Council and therefore had the force of law, and repealed all previous inconsistent laws or ordinances. Neither was it necessary, under these circumstances, for the Legislative Council of Natal to embody the Instructions in a local ordinance

<sup>51</sup> PP No. 12 in 1850. Grey to Smith, 30th November 1849.

and remove subordinate chiefs. The foregoing provision and no other was lawful to deal with native criminal and civil cases. Then followed the confirmation of all such cases formerly tried in pursuance of native law, and similarly all former officials were freed from responsibility in having given decision for such cases, subject to the revision and final decision of the Lieutenant-Governor and Executive Council. But all crimes which might be deemed repugnant to the general principles of humanity recognised throughout the whole civilised world were henceforward to be subject only to prosecution in the Colonial Courts, at the instance of the Crown Prosecutor and not otherwise. The usual clause reserving the right for the legislative authority of the district to repeal, alter or amend the foregoing Ordinance concluded the Royal Instructions<sup>52</sup>.

Earl Grey accompanied the copy of the additional Royal Instructions by his interpretation of this purpose. This was really a continuation of the text of a confidential despatch to Sir Harry Smith, by which he had attempted to defend the twenty-eighth clause of the original 1845 Instructions. In that despatch he had explained, not for the first time, that it was unjust and impracticable to attempt to carry into execution the full provisions of European law among uncivilised peoples. Even if European law was proclaimed at the centre of government, native usages would still inevitably prevail. To denounce those usages as illegal would only aggravate native crime, for no effective substitute could be given them<sup>53</sup>. He tried to point out, therefore, that he approved of the Ordinance of 1849 for the reason that it tried to follow out the principle that seemed most expedient, that of maintaining native usages as far as that could reasonably be done. Then he made clear his view of the purpose of the clause which reserved for the Colonial Courts crimes repugnant to the general principles of humanity. This was not designed to remove crimes of a serious nature from the control of native authority, but to bring to an end unchristian and barbarous usages in dealing with offences. He hoped for example that witchcraft, an imaginary offence, would no longer be treated with severe punishment, while serious offences like homicide be excused or redeemed by a slight fine<sup>54</sup>. This approval of the substance of the Ordinance of 1849 was accompanied by a criticism of its vague wording in certain parts. However, the Ordinance had been in effect some twelve months and on that account Earl Grey wisely proposed no amendments because the authority to do that had been reserved for the Natal legislative. He was quite satisfied that it embodied his own principles and was content to leave its proper interpretation in the hands of Mr W Porter, the Attorney-General at Cape Town. The latter had proved his understanding of the Ordinance when, after examining it, he sent in a report summing it up as "an attempt to give the natives the white man for their chief, who would temper their rude customs by passing them through his more enlightened understanding. The natives would then soon see that the rule of the white man was beneficial, and reverence as law what came out of his mouth"<sup>55</sup>.

This correspondence was conducted over the course of many months and the final settlement of the system of native government only came in the middle of 1850. During these years of theoretical dispute, a hundred thousand natives remained in the district and for their behaviour Lieutenant-Governor West and his Diplomatic Agent were responsible. They accepted conditions as they found them and set to work to evolve a satisfactory scheme of control until proper instructions should come from England. They hoped, of course, for financial help from the Imperial Treasury so that they might organise the locations under magistrates sufficient in number and authority to guide the natives by way of their own customs to a proper understanding of justice according to civilised standards. There was no contradiction in this and the principles held by Earl Grey, but lack of funds made it impossible for him to fulfil their hopes.

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<sup>52</sup> PP No. 29 in 1850. Grey to Smith, 6th July 1850.

<sup>53</sup> PP No. 13 in 1850. Grey to Smith, 20th December 1849.

<sup>54</sup> PP No. 29 in 1850. Grey to Smith, 6th July 1850.

<sup>55</sup> PP No. 36 in 1850, Enclosure 3. Report by Attorney-General, 1<sup>st</sup> December 1849



Unfortunately the Lieutenant-Governor and his assistant were bound to find trouble ahead on the question of land. Sir Harry Smith, on tour in the colony, attributed the discontent of the Natal Boers, whom he met trekking in large numbers mainly to the land restrictions imposed after British annexation. He attempted to appease them by very generous promises on that score and formed a Land Commission to investigate conditions and examine the claims that the farmers might register within the following twelve months. The Land Commissioners found that since three-quarters of the natives were not aboriginals, but refugees, they had settled on land claimed by the Boers. Only a very small proportion of their number was necessary for the supply of farm labour. It was proposed accordingly that the surplus natives should be moved into locations under the control of European magistrates in order that a clear definition of boundaries might be made, restoring the farmers' land where possible and compensating them where their farms fell within the limits of the locations. The Commission advised that five locations of fifty thousand acres each and no more should be set aside<sup>56</sup>. The remaining natives might be transferred to an independent settlement beyond the southern boundary of the colony in an extensive fertile and almost entirely unoccupied region under British laws and administration<sup>57</sup>.

The Land Commission investigated the claims set before it and presented the above report. At the end of twelve months the members automatically resigned as arranged. By that time Earl Grey had become thoroughly alarmed at the extravagant land offers of Sir Harry Smith, fearing that Natal would become a district of extensive cattle farms, the old cause of trouble in Cape Colony. His alarm turned to severe disapproval when he heard that Smith had authorised the Lieutenant-Governor to appoint the retiring members of the Land Commission to a Land Board, to proceed with the execution of the Commission's proposals. But he realised that by the time notice of his disapproval reached the Governor, it would already be too late to withdraw the step he had taken. He had to be content with expressing the hope that Sir Harry Smith would keep land grants to the farmers within much narrower limits and only fulfil their claims strictly on condition that they occupied with land within a very short period on penalty of its reversal to the Crown. The matter of the five locations, each under a magistrate, he ratified, since it fell in with his general scheme. But the suggestion of an independent native reserve south of the Colony was promptly turned down. "I cannot sanction", he wrote, "a proposal to which there are so many difficulties. I am of opinion that permanent locations of sufficient extent should be established within the colony; and that in selecting the sites of these locations, sufficient intervals should be left between each of them for the spread of white settlements; each European emigrant would thus have it in his power to draw supplies of labour from the locations within his more immediate vicinity"<sup>58</sup>.

The chief support of his native policy, the amalgamation of black and white, was undermined by the idea of a reserve outside the district with risk of more distant expulsion or extermination when the growing white population needed more land. He guarded against this by disallowing the transference of natives beyond the Umzimkulu. Then he stipulated that the locations and native villages should be placed at points between the European settlements, hoping that the dependence of the one upon the other would bring about the closer relationship he desired. He reminded the Governor again of the need of an accurate definition of the boundaries of the locations and a registry of their occupants in

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<sup>56</sup> See the map of the district of Natal for the site of these locations :

1. At the junction of the Umzinyati and Tugela.
2. At the junction of the Mooi and Tugela.
3. In the Inanda district.
4. Round Rev. Mr Crant's station at Umvati.
5. Round Dr Adams' station at Umlazi.
6. Temporarily at Zwartkop for an aboriginal tribe.

<sup>57</sup> PP No. 9 in 1850, Subenclosure to Enclose 1. Minutes of Land Commission, 19th April 1848.

<sup>58</sup> PP No. 12 in 1850 Grey to Smith, 30th November 1849.

order to prevent vagrancy, a general habit of uncivilised tribes against which he had given warning in an earlier despatch<sup>59</sup>.

This was doubtless a timely caution, but, until the end of December in 1850, Shepstone was still single-handed in a doubtful official capacity. Smith pointed out that with the exception of Shepstone and his brother, who was also employed by the Natal Government, both ineligible for magistracy on account of their intercourse with the natives north of the frontier either as missionaries or traders, there had been found no other men whose services were at the disposition of the Government, possessed of the requisite qualifications, and no other applications for the office of magistrate had so far been received<sup>60</sup>. In December of 1850 however, four men were found, two of tried colonial merit and two from England with Grey's recommendation<sup>61</sup>. Their total cost was approximately £1,030 a year and their appointment was approved by the Colonial Office since the district revenue could by that time finance the proposal.

The serious attitude which Earl Grey had always shown in matters of native policy was by this time reflected in Natal. Lieutenant-Governor West who had served the Government so well gave way to an equally competent man, Lieutenant-Governor Pine. The latter gave notice of the appointment of the magistrates for the locations in this manner. "The importance of these appointments is, however, so great and the duties connected with them are of so peculiar a character, that any opinion as to the fitness for them of men untried in the management of uncivilised people, however great their talents may be in other respects, is extremely liable to error. These considerations have led me to make the appointments for the period of one year only, leaving it open to the Lieutenant-Governor to confirm or remove any of the persons holding as he may in his discretion deem it proper ... I have filled up these offices at once, before attempting to lay down and carry into execution any complete scheme for the general improvement of the natives in the district, because I am of opinion, in which Mr Shepstone concurs, that more specific information in regard to the peculiar circumstances of the people of each location is required, before such a system could be managed ... it may be found necessary to modify the system so as to suit the circumstances of the different locations ... With the view of gaining such knowledge, I have directed the magistrates already appointed to collect a variety of statistical and other information"<sup>62</sup>.

Enclosures with evidence of care such as this in the ever optimistic despatches of Sir Harry Smith built up a satisfaction and confidence in the Colonial Office which suffered a rude shock when war broke out on the eastern frontier. The magistrates sent in their reports after six months' experience of conditions culminating in the unsettled atmosphere of neighbouring war, in which the Kaffir chiefs were desperately fighting to win back their lost authority and wealth. The consequent proposal of Pine proved both unexpected and disappointing to Earl Grey. He advised "an entire change in the management of the natives of the district, by dividing the existing enormous and unwieldy locations into smaller ones, and by establishing such a machinery of government as shall afford the Executive the means of getting more accurate information regarding the natives than it possesses at present". That proposal itself might have been a further step along the path which Earl Grey had always chosen, but there was more behind it to the contrary than in the proposal itself. Pine explained the change with more detail in his next mail, with enclosures which seemed to him to give good reason for it. Two enclosures took the form of letters from the Diplomatic Agent, written in answer to the measure which had proposed reducing the locations. Shepstone declared that the natives had accepted the existing system of locations in good faith and relied upon the Government to maintain them. He believed that it would be disastrous to make any change to those locations without other full and permanent

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<sup>59</sup> PP No. 95 in 1848. Grey to Smith, 19th June 1848.

<sup>60</sup> PP No. 14 in 1850. Smith to Grey, 31st July 1849.

<sup>61</sup> Namely Messrs Mesham & Cleghorn for the Inanda & Dmvoti locations and Messrs S R Thompson & G R Peppercorn for the Umzinyati & Impafana locations respectively.

<sup>62</sup> PP No. 8 in 1851, Enclosure. Pine to Smith, 7th October 1850.

provision, for the natives would never understand why the locations were being broken up. He had sufficient confidence still in his own influence amongst the tribes to effect their removal peaceably, given time and prudence, but he would give no promise of attempting it unless their future was to be permanent.

Shepstone did not attempt to prove that the existing system, to all intents and purposes his own work, was perfect, but he did claim that, with the limitations under which he had worked, no greater success could have been achieved. "The management of the natives during this period has been entirely by means of themselves and without any European or civilised agency whatever<sup>63</sup>. For the mere governing and controlling them alone, I have found the means furnished by themselves to be amply sufficient; but they fail when the higher objects of a Christian Government are attempted and when, by the influx of civilised immigrants, matters of dispute have become complicated, and the parties to them are white men. Hence arises the present difficulty. They have been governed and an active control exercised over them, but they have not been prepared for the ordeal which their contact with civilised man renders it inevitable they should pass through, because the machinery that sufficed for the one would not accomplish the other<sup>64</sup>. That was just the point. Shepstone had achieved complete success with the means at his disposal and had been led, naturally, to rest there without realising that his achievement was not an end in itself. He detailed his limitations. Improvements in agriculture and the like had not been possible because the land set apart by the Government had too uncertain a footing. (This was rather a contradiction of the point he stressed for the maintenance of the locations, that the natives looked with confidence to the Government for their maintenance) . Secondly he claimed that the land allotted to the locations had only been sufficient for two-thirds of the natives. Then he pointed out that the first magistrates had only very recently assumed office, with such incomplete establishments that they were necessarily inefficient.

The unrest of war on the frontier, the excitement aroused amongst the natives and the growing feeling of insecurity in the minds of the colonists within the district forced Shepstone to acknowledge that the system of native government, hitherto sufficient and satisfactory as it might have been, was under these changing conditions a matter of grave consideration.

The colonists had no doubt at all as to the need for revision. Two hundred and seventy five D'Urban colonists unanimously agreed that the existing state of the Kaffir population and the Kaffir locations was highly unsatisfactory and fraught with extreme danger to the entire white population of the district, and begged for an enquiry into the best means permanently to ensure tranquillity. They accused the location system of discouraging, rather than promoting, industry, and of occupying injudicious and dangerously extensive sites. They proposed the break up and reduction of the locations, partly in fear of the large numbers of natives massed together in the district while a native war was in progress in the south, but partly too to free again a cheap labour supply. This memorial, which was forwarded to the Colonial Office declared in conclusion that "enlarged intercourse with the increasing white population and the growing acquaintance with the outward characteristics of a civilised people, have imparted to the native races ideas of cohesion and power not formerly possessed and have promoted a spurious advancement, which, in the absence of a true civilisation, is much more mischievous and dangerous than the unawakened apathy of their normal and purely savage state"<sup>65</sup>.

The same attitude towards the old location system was expressed in the Natal press. "Concurrence of opinion is in favour of breaking them (the locations) up into smaller sections, under effective magisterial superintendence and planting around such reduced and manageable sections, a cordon of

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<sup>63</sup> This refers to the period before the appointment of the resident magistrates who, at the time of writing, had been in office three or four months.

<sup>64</sup> PP No. 9 in 1854. Shepstone to Grey, 7th April 1851.

<sup>65</sup> PP No. 9 in 1854, Enclosure 3. Memorial of D'Urban colonists to Pine, 15th October 1851.

European settlements. By this means, a wholesome surveillance would become practicable; dangerous combinations be prevented; the cause of civilisation advanced; and the wants of the labour market more readily supplied. On these main features, we feel confident, there is pretty general coincidence of public opinion; and any policy that should seek to perpetuate the present system would be reprobated by all classes, as fraught with mischief and ruin"<sup>66</sup>.

The Lieutenant-Governor realised the gravity with which Earl Grey would regard some of the statements contained in these enclosures and attempted an explanation. He had spoken in a previous despatch<sup>67</sup> of 'the enormous and unwieldy locations'. He qualified that phrase in the November despatch and described them as seven immense locations varying in area from sixty thousand to four hundred and fifty thousand acres, their average size being about one hundred and eighty thousand acres<sup>68</sup>. They contained among some valuable land, the most broken country and the strongest natural fastnesses in the country, and south of Umkomanzi river, natives virtually occupied the whole of the country. He realised that these circumstances were not the fault of the former policy employed, but had arisen from the want of the means at the disposal of the Government and other causes over which it had but slight control<sup>69</sup>. Yet there were evils inherent in these circumstances which ought to be remedied. The advantage formerly presented by the broken state of the black population was not lost in face of the gradual reconsolidation into tribes under chiefs, where chiefs had not existed before. These people were able to live upon the flesh and milk of their cattle, which they grazed on the lands allotted or occupied by them, with the result that they had no further desire to work. The system of extensive locations had not brought and could not bring the native to any notion of individual as opposed to tribal or national property in land, and Lieutenant-Governor Pine was emphatic upon the value of this means in the civilisation of the native, quoting previous experience in West Africa to support him.

His remedy depended upon the division of the locations or portions of the locations into native property to be held individually, interspersed with white settlements. This division was to be done gradually and cautiously in portions of twenty to forty thousand acres, to be subdivided into sections, half or more for the natives and the remainder for white settlements. In this way land was only being taken away from the natives to be given back with rights which they had never possessed before and with an increased value due to their proximity to white communities. He suggested making the experiment with a small piece of land fourteen miles out of D' Urban, where the natives had had experience of intercourse with the white colonists and should therefore have acquired enough of European ideas to understand the plan, a point which Shepstone opposed. Earl Grey realised, after news of the outbreak of war on the frontier and panic at Pietermaritzburg and other places in Natal, that there was obvious lack of confidence in the administration of native affairs, and quickly reconciled himself to the need of complete revision. It was hard for him to do that for the news of the comparative failure of native government came without warning. It was against his principles to safeguard the danger of force by force, except temporarily, and he realised that other measures must be adopted to reclaim and civilise the natives where so little had been accomplished. The continuance of native laws by their own chiefs had been unavoidable because no other substitute had been possible, but the information then in the hands of the Colonial Office made it obvious that infinite danger would result from continuing that system longer than necessary, whereby the population of the district was becoming a permanent division of two classes under different authorities and laws.

If amalgamation was ever to be achieved, the old system must be replaced by one which would bring the whole population under a uniform system of law and under the management of the same

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<sup>66</sup> Natal Times: quoted in the report of the 1852-3. Natal Native Affairs Commission, p30.

<sup>67</sup> PP No. 3 in 1854. Pine to Smith, 4th July 1851.

<sup>68</sup> PP No. 9 in 1854. Pine to Smith, 1st November 1851.

<sup>69</sup> The locations had been selected before the appointment of Lieutenant-Governor Pine, which dated from 29th November 1849.

authorities. On that point Grey was still determined. The revenue of the district by the end of 1851 was capable of supporting a more extensive scheme than was possible when the 1847 Native Commissioners had surrendered their proposals. Grey planned to make the ordinary laws of the district binding upon all the inhabitants as quickly as a proper police force could be established and a proper municipal organisation created. This could not be done for the whole district, and where such machinery for the administration of British law did not exist, native laws under native chiefs had necessarily to continue. Grey made that continuance dependent on the following condition: "it ought at once to be established, that it is only a delegated authority derived from the British Government which is exercised by any native chief, not an authority of his own; and every district ought at once to be placed under the control of some trusty European, who under the name of district magistrate or field cornet, or any other considered more appropriate, should exercise a certain and defined authority, the natives whom it is necessary to intrust with power being given that authority as officers subordinate to him"<sup>70</sup>. This same subordination of the chiefs to European control explained the change which Grey proposed in the name of Shepstone's office. To his mind the designation, 'the diplomatic agent with the native tribes', implied the independence of the tribes placed under his control. That was no longer to be the case and therefore he suggested that some more appropriate name such as 'chief magistrate for the native tribes' should be adopted.

Having determined that measure of revision, Earl Grey received the despatch from the Lieutenant-Governor which enclosed his own proposal for smaller locations, Shepstone's report after an examination of the old system and the D'Urban memorandum<sup>71</sup>. Grey then realised the conditions of the locations even more clearly; far different from what he had been led to picture. They were almost native territories, so slightly touched by European standards of civilisation that they were regarded by the colonists as an ever-present danger and even more to be feared where intercourse with the colonists had occurred than in their natural state. But that picture of the locations was a war-time picture and Grey could see far enough, into the past and the future, to understand that its proportions were exaggerated. Mr Shepstone had done well and Grey never minimised his success, acknowledging readily the limits over which he had no control. He did, however, admit this fault. "The error into which Shepstone has fallen has been the natural one of becoming unduly partial to a system which he has very ably administered, but which, though it was the right, because the only practicable one, when it was adopted, ought to have been considered merely as provisional and requiring to be gradually superseded by a better as soon as possible"<sup>72</sup>.

The location system, a temporary measure, was, under changed conditions, discarded. Earl Grey accepted the proposal to diminish the size of the locations and to assign to the tribes allotments of land to be held as individual property. In order to prevent the isolation of the native tribes he approved of the cession of part of the existing locations for white settlements and especially the occupation of those districts which formed natural fortresses.

But impressed by Shepstone's foreboding of danger, he emphasised the need for caution and the avoidance of any step giving the slightest ground for reproaching the Government with bad faith towards the natives.

These proved to be Earl Grey's final directions with regard to the native locations. Shepstone made another stand for the natives two months or so before Lord John Russell's ministry fell, but it was not forwarded from the Cape until after that crisis. He had realised that it was out of his power to save the locations and made a last desperate alternative suggestion in the shape of a native reserve. South of the Umkomanzi river, he chose ample and permanent provision of land, vested still in the care of trustees, where the natives might settle isolated from the whites, for he considered that the chance of

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<sup>70</sup> PP No. 3 in 1854. Grey to Smith, 3rd December 1851.

<sup>71</sup> PP No. 9 in 1854. Pine to Smith, 1st November 1851.

<sup>72</sup> PP No. 7 in 1854. Grey to Pine, 14th February 1852.



amalgamation had been irretrievably lost. The second half of his scheme included the establishment of magistrates between that territory and the district inhabited by Europeans to regulate intercourse and a vague chain of military posts between Natal and British Kaffraria as a protection for both. No part of this proposal could have been contemplated by Grey. It was against his principles and its successful execution impossible on the score of expense.

Earl Grey held the development of native policy consistently to the lines of ultimate amalgamation. The temporary scheme of native locations maintaining native law was undoubtedly the right path to that end. The flaw, and the only flaw of any real importance, in that scheme was bound up with the part he designed for the chiefs.

Shepstone after years of experience and intercourse with the natives spoke of the chief, especially when he was hereditary, as being an object of respect amongst his people. Sir George Napier, for many years Governor of Cape Colony, declared that everything ought to be done by the chiefs, for he believed that the authority of the chiefs over the tribes was of that nature that they had justly be held responsible for the acts of persons under them<sup>73</sup>. The opposite view was held by one of the Colonial Medical staff who had spent all his life in the Cape. He believed that the Kaffir had a sort of respect for the chief, but nothing beyond that. If he exacted anything from his subjects which was now agreeable to the whole body, he had no certain means of enforcing it<sup>74</sup>.

Earl Grey was not acquainted with these views until 1851, but he did know reports varied. His facts also told him that in any case sixty or seventy per cent of the Natal natives, being refugees, had no chief. Therefore while thirty or forty per cent either respected or did not respect the authority of their chief, the remaining sixty or seventy per cent had definitely rebelled against him and were not likely to show greater deference to a nominee of the Government. The analysis of the native population in Natal made this position clear and Earl Grey ought to have realised its significance. It was in view of the same conditions that the 1847 Commissioners for locating the natives had impressed the need for the immediate appointment of European magistrates to control the chiefs or their substitutes in the temporary continuance of native laws. The Royal Instructions omitted provision for their appointment and left the chiefs uncontrolled except by the principles of humanity. Even if there had been an agent to interpret these principles to the chiefs, some greater driving force was necessary to ensure this regard. But that driving force, whether it took the form of the magistrates proposed by the Commissioners in 1847 or otherwise, was dependent upon the Treasury, and the Natal Treasury was not equal to the demand. The Secretary of State, moreover, was determined to keep the civil establishment of the district within the limits prescribed by its exchequer.

Under the provision of the Royal Instructions, then, the administration of native affairs was left to the control of the Diplomatic Agent working through what chiefs there were and substitutes appointed by the Government in other cases. Those chiefs, or their substitutes, were left in control of the administration of the native villages, entrusted with the levying of tribute and given a share in its expenditure. Shepstone successfully controlled this system until the outbreak of war. At that point the Lieutenant-Governor intervened and went so far as to declare that, rather than being agents of the Government, the chiefs were actual barriers of progress. Their power had increased and correspondingly their tyranny. The belief in witchcraft was unshaken and used as an engine of grinding oppression by them. In short he advocated the gradual destruction of their power<sup>75</sup>. Earl Grey was prepared to admit that he had over-estimated the influence of the chiefs, but until some other agent

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<sup>73</sup> Report of 1851 Native Committee. Evidence of Napier, 23rd June 1851, in answer to Qns. 1523-4.

<sup>74</sup> Report of 1851 Native Committee. Evidence of A Smith, 12th June 1851, in answer to Qn. 295.

<sup>75</sup> PP No. 9 in 1854. Pine to Smith, 1st November 1851. The 1852-53 Natal Native Affairs Commission took the same attitude with regard to the maintenance of the authority of the chiefs. "The substitute recommended by the Secretary of State for the Colonies dated 10th December 1847, founded as it was on the reconstruction of almost irresponsible hereditary chieftainship, for the purpose of governing the Kaffir population is still more reprehensible and has been productive of still greater evils" P10.

of government could be found, he could not arrange otherwise. He did remedy the omission as soon as the revenue allowed towards the end of 1851, when he extended the laws of the district to black and white inhabitants alike as far as possible. Even then that could not be done for the whole of the district and where he was not able to exchange native law for the district law, he guarded, as far as lay in his power, against the threatened danger by making clear that the chiefs left in authority possessed no power of their own, but had it delegated to them by the Government. Just as Earl Grey had been forced to restrict his military establishment to the limits of his purse, so his scheme of native government was dangerously hampered in its growth from lack of funds.

As a matter of principle, no less than necessity, the Secretary of State refused to contribute to the cost of the maintenance of Natal from the time he assumed office. The colony was being maintained for the benefit of its inhabitants, black and white, and therefore it was their duty to provide for its cost. In view of this, every scheme which depended upon England for pecuniary support was definitely and firmly discountenanced, whatever its contents happened to be. Every development, in fact, was dependent upon the Colonial Treasury. Earl Grey made one exception and that with reserve. "The maintenance of no very large military force for the support of the authority of the Government and to aid the inhabitants in defending themselves, is the only change which I am prepared to recommend that Parliament should be asked to provide for Natal"<sup>76</sup>. In other words, he was prepared to send help from England to support the colonists in any dangers to which they might be exposed from a foreign enemy, but British troops were not to be supplied for police duties to maintain the internal tranquillity of the colony<sup>77</sup>.

There were two sources of revenue to which Earl Grey looked for funds. The usual revenue accruing to duties upon imports he hoped would yield a small but increasing income, as the habits and tastes of civilised life became more general. Then he proposed to levy direct taxes on land and cattle. The land tax was to serve the double purpose of yielding revenue and correcting the evil practice, already established, of acquiring extensive scattered lands for pasturage which could be put to better use under cultivation. The tax was assessed, for that purpose, on extent of land, not value. Grey hoped also that tax on cattle would induce the farmers to reduce their herds and devote themselves to agricultural or mechanical pursuits. In addition to the land and cattle tax, he suggested a small poll tax as the price of the protection the natives enjoyed. In default of payment the individual or tribe should not be allowed to remain in the settlement and enjoy the protection it afforded<sup>78</sup>. All the inhabitants were liable to taxation, but Grey realised that many of the natives would not be in a position to pay a money tax and accordingly suggested that it should take the shape of cattle if the natives preferred, but at a rate that should be to their interest to pay money. They might be offered employment within the district if they wished to earn money and in cases of the plea of inability to pay either in money or in kind, the same employment might be offered them, to be executed as piece work.

Earl Grey laid great stress on the importance of taxation, not as a part of fiscal policy, but as a civilising factor. He explained his view in a despatch to Sir Harry Smith. "The policy which I believe best adapted to promote civilisation is that of raising a revenue required for the support of those institutions which distinguish a civilised from a barbarous state of society, by such taxes as may tend most to render a mere subsistence difficult to be obtained without exertion and to increase the amount of labour which, in a state of barbarism and in a country very thinly peopled, is necessary for that purpose; at the same time endeavouring to encourage industry and the formation of the taste for the comforts and luxuries of civilised life, by adopting a low rate of duties on imports, to avoid raising their price"<sup>79</sup>.

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<sup>76</sup> PP No. 66 in 1848. Grey to Smith, 10th December 1847.

<sup>77</sup> Earl Grey op. ext. Vol IP44.

<sup>78</sup> PP No. 66 in 1848, Grey to Smith, 10th December 1867.

<sup>79</sup> PP No. 95 in 1848. Grey to Smith, 19th June 1848.

Such was the outline of Earl Grey's proposals as regards native taxation. The first appeal for deviation from these fixed principles came with the report of the 1847 Commissioners for locating the natives. They declared that the immediate execution of the location system, with financial assistance from England, would, in a few years' time, defray the expenses of its own establishments, repay the loans from the Imperial Treasury, and ultimately furnish an excess to the district treasury<sup>80</sup>.

The second report of the 1847 Commissioners furnished that estimate. Thus:

1 Superintendent	£250
1 Clerk & Registrar	£100
Schools	£100
25 Native Police	£100
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Annual cost of one location	£550

On that basis the annual cost of ten locations, each sheltering ten thousand natives, would be £5,500. The number of taxable natives, that is natives over sixteen years of age, in each location they estimated at seven thousand. On a proposed poll tax of three shillings, payable in money or kind, preferably exportable produce, each location would yield £1,050. The total sum from ten locations, £10,500, would then furnish a surplus of £5,000 each year of revenue over expenditure. This £5,000 was clear of any other available source of revenue. The whole scheme of taxation depended upon the registration of all the natives residing within the locations. The Commissioners were optimistic, but they did not hope to hand over £5,000 surplus at the end of twelve months. They counted upon twelve months to complete the register and hoped to have sufficient machinery in action during the second year to yield a small proportion of the amount necessary for the maintenance of the establishment. They expected an increase during the third year and, with arrangements complete and the system established, the £5,000 surplus at the end of the fourth year<sup>81</sup>.

The Secretary of State did not share the expectations of the Commissioners and preferred to see a smaller revenue coming in at once, without an outlay of £5,500 in decreasing sums each year from the Imperial Treasury. He believed that an immediate tax was possible and was supported in this view by Shepstone, who proposed an alternative basis of taxation when the first had been refused by the Natal Legislative Council. The Diplomatic Agent had been one of the earliest supporters of the idea that the natives should be taxed as well as the European colonists. His intercourse with the natives had proved that the principle was by no means new to any of them, for they had always contributed a few of their own cattle to the herds of the chief, and was not likely to be unpopular when it was established on a just and equitable basis. He declared that the indiscriminate equalisation of a poll tax was highly unjust and suggested, in its place, a hut tax, which would at the same time discourage polygamy 'that great incentive to the exclusive acquirement of cattle as the most desirable description of property'. Its evasion was only possible by the erection of more expensive dwellings and that too was greatly to be desired. He considered five shillings per hut a fair sum and to these might be added one or two shillings per hut on all the kraals as quit rent for the land attached. These taxes could not be paid in money in every instance and Shepstone suggested the authorisation of cattle or any other saleable substitute<sup>82</sup>. He estimated the proceeds of the proposed taxes for the current year at £3,000<sup>83</sup>. With regard to the necessary registration of the natives, he pointed out that it could only be accomplished by men who understood the language and its orthography.

Ultimately, and Earl Grey had agitated many times for the immediate imposition of the native tax, the Secretary of the Natal Government was able to report the adoption of a scheme based on the memorandum of the Diplomatic Agent. The Legislative Council resolved that in the absence of the

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<sup>80</sup> PP No. 65 in 1848, Enclosure. Report of 1847 Natal Native Commission I.

<sup>81</sup> PP No. 93 in 1848, Enclosure. Report of 1847 Natal Native Commission II.

<sup>82</sup> PP No. 18 in 1850, Enclosure. Shepstone, 18th June 1849.

<sup>83</sup> PP No. 28 in 1850, Enclosure. Smith to Grey, 5th October 1849.

machinery required for registering the numbers of natives, an annual tax of seven shillings per hut should be levied upon every native kraal throughout the district as a provisional measure<sup>84</sup>. Earl Grey received the resolution with approval. In his opinion the rate seemed rather low and insufficient to meet all the expenses for which provision required to be made, but he acknowledged its prudence. Nevertheless, he pointed out that had some such tax been imposed at an earlier date, the revenue by that time might have been considerably greater.

Then Grey proceeded to outline one or two proposals in connection with the levy of this native tax. It seemed that, in the case of the tribes acknowledging the authority of a chief, the tax might more conveniently be levied in the shape of tribute due from the tribe rather than an individual tax. The chief might then be responsible for its payment from the fund invested in the property of the tribe, under the superintendence, as before, of the Colonial Government. This method would in time enable a uniform system of taxation to be established for natives and Europeans. He had arrived at that conclusion because he understood that the natives as a rule possessed no individual property on which a tax could be imposed, but that their land, crops and cattle were of a communal nature. He was not sure that this custom prevailed amongst the Natal natives, but he recommended the point for investigation. Actually he was wrong in his surmise with regard to cattle and crops. The land was certainly held with no ideal of individual tenure, but, apart from a small proportion which was owing to the chief, the cattle and crops were the personal property of the native. The members of the kraal were allowed to shelter their animals in the pen around which the huts were built, but they were privately owned. The crops were reaped from the land in the immediate neighbourhood of each hut and, until the harvest had passed, the occupant assumed what amounted to personal ownership of the land. Under these circumstances, the hut tax proposed by Shepstone was practicable and probably more just than the idea of tribute to be levied by the authority of the chief.

Keeping in mind the discouragement of extensive cattle rearing, Grey accepted the substitution of cattle in lieu of money, but on the condition that the tax was rated higher. Similarly he allowed a money tax to be committed by means of payment in labour, but so rated that money payment would be preferable.

The Secretary of State was always insistent that the proceeds of any and every tax raised in the colony should be expended locally. By such means he considered that each district should maintain a constable, with assistants if necessary, provide sufficient needs for its development, support a school of an industrial character and a dispensary or hospital, where every inhabitant should have the right to be treated gratuitously and where wards should be contained to serve as workhouses and houses of correction for vagrants and petty offenders. He advised that the first proceeds of the hut tax should be devoted to defraying the cost of making a registry of the natives in each location, a preliminary necessary for the development of any scheme of taxation<sup>85</sup>.

The result of the first instalment of the collection of the hut tax fully justified the Secretary of State's irritation at its delayed imposition. The levy was concluded after a journey of forty eight days by Mr Shepstone and one assistant. It comprised:

Cattle 1,582 head received at	£1,782 1 0
Cash	£1,902 1 0
Total to date	£3,684 2 0

Shepstone reported that the amounts had been collected from rather more than one third of the native population of the district and "the natives everywhere manifested not only a willingness, but the greatest anxiety to make their payments and looked upon the receipts granted to them as

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<sup>84</sup> PP No. 13 in 1850, Enclosure. Secretary of Government Natal, 20<sup>th</sup> June 1849.

<sup>85</sup> PP No. 12 in 1850. Grey to Smith, 30th November 1849.

conferring upon them a tangible and closer connection"<sup>86</sup>. At the end of the first twelve months, September 1st 1849 to September 1st 1850, the total amount received was £8,831 4 0 including;

Cattle	£3,306	7	0
Cash	£5,241	2	0
Road receipts	£	283	15 0
Total	£8,831	4	0

The expenses of the whole four months' collection to be deducted amounted to £514 11s 5d. The huts so taxed numbered 25,232. The report again concluded with expressed gratification at finding, almost universally, a right appreciation of the tax and obligations to the Government<sup>87</sup>. The revenue, derived largely from the establishment of the hut tax and the increasing imports, put the finance of the Colony into a very satisfactory condition. The Lieutenant-Governor was able to report in February 1851 that, for the first time in the history of the Colony, the accounts of the previous year showed the return of a larger revenue than expenditure, a position of affairs which Earl Grey considered very satisfactory<sup>88</sup>.

The 1851 estimate of expenditure included an approximate increase of £4,000 under the head of 'aborigines'. This almost doubled the 1849 accounts under the same head, but it followed the appointment in December 1850 of the resident magistrates and their assistants for the locations. Previously the Diplomatic Agent had drawn a salary of £300, whereas the annual cost of the increased establishment would reach a total of £8,540 6 8. Similarly the cost of the police, European and native, had been only £648 10s 11¼d in 1849 while the 1851 estimate amounted to £1,946 7s 6d. The Secretary of State signified complete approval: "I am of opinion that the additional constables and magistrates are absolutely necessary, as well as the expenses put down under the head of 'Aborigines'. To withhold the outlay necessary for the preservation of tranquillity and security would be far from a real economy. I am so much impressed with the importance of acting upon this view of the subject that I should have been prepared to sanction a still larger outlay for extending and improving the police force. The expenses under these heads are those which stand first in importance, and all others must give way to them"<sup>89</sup>.

Period	Revenue		Total	Expenditure
	Customs	Other Sources		
1846	472 1 9	2,601 2 6¾	3,073 4 4¾	6,905 8 3½
1847	2,881 17 7	3,758 18 0¾	6,640 15 7¾	8,340 4 7½
1848	4,752 2 8	4,516 15 11¾	9,268 18 1¾	10,101 4 0¾
1849	5,681 6 7	7,150 12 0	12,831 18 7	14,940 15 1¾
1850 <sup>90</sup>	11,200 2 0	17,209 19 2½	28,410 1 2½	21,774 4 5

An equally satisfactory report of accounts reached the Colonial Office for the year 1851 with the 1852 estimates, but only after Earl Grey had resigned office. The hut tax had been collected with great ease, and the magistrates, to a certain extent, assisted the Diplomatic Agent in the work. The Lieutenant-Governor and Council proposed that the tax should be collected simultaneously in future through the agency of the magistrates. The new estimates showed a slight decrease under the head 'Aborigines', for the disbanding of the native police force set free the sum of £3,000, but the larger part of it was consumed by other ways in the department<sup>91</sup>.

Earl Grey did not confine details of his native policy to the district alone, for one of the conditions on which he had based the retention of Natal was the possibility of spreading the benefits of civilisation into the interior of Africa. The natives beyond the boundaries differed in that those north in Zululand and the few scattered tribes south occupied land independent of any European, while westwards and

<sup>86</sup> PP No. 33 in 1850, Subenclosure . Shepstone 17th December 1849.

<sup>87</sup> PP No. 4 in 1851. Smith to Grey, 30th October 1850.

<sup>88</sup> PP No. 13 in 1851. Smith to Grey, 16th April 1851. Enclosure, P84 .

<sup>89</sup> PP No. 13 in 1851. Grey to Smith, 14th July 1851.

<sup>90</sup> PP No. 11 in 1854. Pine to Smith, 26th February 1852, Enclosure

<sup>91</sup> PP No. 11 in 1854. Pine to Smith, 26th February 1852, Enclosures.

north-west over the mountains lay the Boer states to whose control the natives there were subjected. In the case of the latter, Grey stated that he was prepared to extend the protection of the British Crown to those chiefs who should apply for assistance to defend themselves from the encroachments of the Boers upon their lands. It was a limited offer of help, however, for it was to entail no pecuniary burden upon the Colony, and consisted actually of the provision of British officers to combine and direct native efforts<sup>92</sup>. When Sir Harry Smith proclaimed the Orange River Sovereignty in 1848, in the attempt to preserve peace amongst the inhabitants, he transferred the responsibility of those natives wholly to the British Crown and provision was made for their government in the Sovereignty.

The former class of natives occupying land north and south of the district of Natal acknowledged no control whatever apart from that of their chiefs. At times the relations between the paramount chief, Panda, and the Natal Government became very critical. Earl Grey wished to win the co-operation of Panda in order to maintain the peaceful relations amongst the lesser chiefs which were so necessary for the advancement of civilisation. Outwardly Panda expressed his friendship again and again, but under cover of it there always lay the jealousy which attended the increasing stream of fugitives from his territories into the district. Grey asked that an agent should be stationed at the royal residence to represent the Natal Government in cases of dispute between the Europeans and the natives, but it was not safe for any white man to be so isolated and the appointment was not made until the conclusion of war in 1852. All that the minister in London could do was to ratify two ordinances passed by the Natal Legislative Council. The first required that every trader should account for all persons belonging to the native tribes beyond the boundary brought into the district and return the same unless he could give satisfactory account of them<sup>93</sup>. This was an attempt to prevent the traffic in native labour which still existed in some degree beyond the frontier. The other ordinance made it illegal for any person to give, sell or barter to any person of the adjacent native tribes fire-arms, gunpowder, or any other munition of war except by written permission to that effect, signed by the Secretary to the Government<sup>94</sup>.

Beyond these attempts to ensure the security of the colony and justice for the natives in their relations with the colonists, Earl Grey could carry the application of his principles no further. The general welfare of the natives beyond the boundaries of British sovereignty was left to the chiefs over whom the Government could not and did not wish to exert any control which necessitated further burden to its purse. Grey was thus forced to depend, for the extension of civilisation into the interior, upon the influence which the natives, enjoying its benefits, would exert on those around in an ever-increasing measure.

A similar policy was evolved at the Colonial Office for the government of the natives in Cape Colony. The outbreak and conclusion of the War of the Axe led to the adoption of a step which Sir Benjamin D'Urban had attempted at the conclusion of a previous war. The territory between the Keiskama and Kei rivers was forced to surrender its independence and acknowledge the authority of the British Crown. This step was taken deliberately despite the declared aversion of the Government to an extension of British dominion in South Africa. The natives on the eastern frontier of the Cape had repeatedly abused the enjoyment of the privilege of independence and shown themselves insensible of the obligations they had contracted by treaty with the Government. Therefore the Secretary of State was determined to take advantage of their situation and organise their government under British officers in such a way that the new state would form a buffer for the colony against the inroads of either the Boer republics or the natives beyond the Kei.

Earl Grey had other reason for establishing a government on these lines, besides its importance as part of the defence scheme of the Colony. Just as the application of justice according to the principles of a civilised community had been impracticable in Natal for the government of the white and black

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<sup>92</sup> PP -No. 41 in 1848, Grey to Pottinger, 4th December 1846.

<sup>93</sup> PP No. 6 in 1850. Subenclosure to Enclosure 3, 26th December 1848.

<sup>94</sup> PP No. 6 in 1850, Subenclosure to Enclosure 2, 14th February 1849.

inhabitants together, so its immediate establishment in Kaffraria was impossible. With a view to the maintenance of peace, the government had to be forceful and resolute, thereby serving the interests of the colonists and natives alike. The scheme of government needed to be of a temporary character and one that would gradually accustom the natives to realise the value of the accepted standards of justice and abandon their own barbarous customs. Grey believed that the best way to effect that purpose was to maintain the authority of the chiefs temporarily, but subordinate it to the firm control of European magistrates in civil and military matters. A safeguard was introduced in the form of military posts, occupied by British troops at certain points in the newly-acquired territory, while a British officer was appointed to the chief command of the whole native force. Some of the more trustworthy of the native chiefs were then appointed with a small stipend as subordinate commanders. Similarly, in the interests of safety, Kaffir troops were enrolled under British officers, and Grey suggested that they should be transferred for service to the Western district of the Cape, while Hottentot regiments took their place in the east. The liberty of these Kaffir troops would in that way be dependent upon the good conduct of the natives in Kaffraria.

To avoid troubles that had already arisen in the Colony through the extensive land claims of the cattle farms, Earl Grey gave instructions that such farmers should not be allowed to settle there, but that Europeans employing themselves in any mechanical arts, and especially in the arts of agriculture, should be given every encouragement to make their homes amongst the Kaffirs.

Again stress was laid on the connection of the exercise of authority with the systematic and earnest endeavour to diffuse moral instruction and an acquaintance with the arts of civilised life through the mission stations. The Secretary of State promised that "Her Majesty's Government would render all the aid and countenance in their power" to any plans devised by the magistrates and the missionaries, well and maturely considered, for that purpose. He was also very particular to ask "that all teachers of youth should be induced and required to the utmost possible extent to instruct them (the natives) in the use of the English language and then make that language the medium of instruction. Every attempt to reduce the Kaffir tongue to writing as a medium of instruction should be carefully avoided and discouraged"<sup>95</sup>.

Then came the all-important question of expense. The establishment of Kaffraria had been designed to involve a minimum outlay and therefore Earl Grey was prepared to be more lenient than in the case of Natal. The security of Cape Colony, too, depended upon the maintenance of British authority on the frontier, and that made every delay on the score of expense a matter of serious danger. There was no hope of obtaining a sufficient revenue from the Kaffirs by a direct tax. In Natal that principle had been accepted without demur by the natives who had fled into the Colony for protection. In Kaffraria the authority of Britain had been imposed as the result of conquest and some time would have to intervene before the natives acknowledged any debt to England. The Colonial Treasury was exhausted after the expense of war and could not provide for the establishment of Kaffraria, although it was its duty for the charge had been incurred for its protection. There was no other course open than for the Secretary of State to authorise the Governor of the Cape to draw upon the military chest for such sums as were indispensable for the organisation of the new government, but he did so with instructions that the means of creating a public revenue in the district be found as soon as possible. That was first done in the Tingo location under the direction of Sir Harry Smith, who ordered each head of a family to pay an annual rent of £1<sup>96</sup>.

In outline there was little difference between Earl Grey's native policy as illustrated in Natal and in the Cape. In both cases its basis was the maintenance of order by the establishment of a government to administer the black and white population. The differences in the proportion of the numbers of the black and white inhabitants account for the differences in the schemes of government. In Natal white

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<sup>95</sup> PP No. 1 in 1848, Grey to Pottinger, 2nd November 1846.

<sup>96</sup> PP No. 171 in 1848, Smith to Grey, 21st October 1848. Kaffir Tribes.

colonists pressed claims for land which the refugee natives had occupied and the location system was an attempt to find a solution. In Kaffraria, on the other hand, the land belonged indisputably to its native occupants at the time of its annexation, even though the Kaffirs were not strictly aboriginals. It was in a sense, therefore, one entire location and details of government were not concerned with a white population, except such as was admitted later. In each case Earl Grey believed that trade would follow the establishment of security for property and person and that the natives would acquire the tastes and habits of Europeans through commercial contact. If the missionaries were encouraged to spread Christianity amongst the people at the same time as they felt the effect of intercourse with the white settlers, then Grey hoped to see a new generation appreciable of the protection secured to them by the Government and sensible of the advantages derived from the administration of justice on principles recognised by humanity. With such a generation, amalgamation would become a matter of less distant attainment. All went well in Kaffraria until the outbreak of war in 1851. Its unexpectedness through the reports of the Governor left the Secretary of State guessing as to its real cause. He was prepared to attribute it in part to the bad effect upon the natives of division within the Colony on the subject of the convict agitation and representative government. He knew also that certain of the Kaffir chiefs had proved refractory, but he had been led to believe that they had received due punishment at the hands of the Governor. He could only guess as time went on, that no punishment could efface the bitterness they felt as their power and wealth dwindled away and, moreover, that they found their people ready to rebel against authority, brought into desperate straits after a long drought. When, during the war, the Kat River Hottentots and a section of the Cape Mounted Rifles deserted to the enemy, Earl Grey definitely censured Sir Harry Smith for undue lenity towards them and blamed their desertion for the prolonged war. But disaffection spread further and existed right in the heart of the Colony. The Colonial Secretary, John Montagu, in a letter to the Editor of the "Grahamstown Journal" wrote, "The disaffection which you represent as existing in your quarter is unfortunately actively at work in the heart of Cape Town also. Its results are apparent in the apathy of those who under other circumstances would have come forward at once to put down the Kaffirs once and for ever"<sup>97</sup>. This state of affairs left Earl Grey dissatisfied and before he resigned office he had appointed two Assistant Commissioners, Major Hogge and Mr Owen, to investigate conditions and report the causes of discontent as far as they were able.

In his Letters to Lord John Russell, written after resigning office, Earl Grey still declared that it was possible to govern the Kaffirs successfully so as to maintain peace and order amongst them until civilisation could fairly take root. "I believe", he wrote, "(and the experience gained in Natal confirms my opinion) that the policy adopted with this view was right in itself, though, from errors in its execution, it has failed for time. I think I can see what those errors were and, from the experience which has been gained, they might be avoided in future"<sup>98</sup>.

The application of the principles underlying Earl Grey's native policy in Natal and the Cape was not particular to those colonies. Whenever the permanent settlement of Europeans was possible in the British dominions, he worked for their ultimate amalgamation with the natives. Conditions in tropical countries like the West Coast of Africa and the West Indies in the middle nineteenth century put this out of the question and rendered anything beyond temporary residence impossible for white people as a rule. In New Zealand, like South Africa, on the contrary, native policy was directed towards the incorporation of the Maoris into the British settlements with mutual advantages to both races. The natives would supply agricultural produce and a constant supply of unskilled labour for other purposes, while the Europeans supplied the various manufactured goods required by the natives and provided for the manifold wants created by their increasing civilisation<sup>99</sup>.

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<sup>97</sup> Godlonton MSS. Montague to Godlonton, Colonial Office, 27<sup>th</sup> January 1851.

<sup>98</sup> Earl Grey, *op. cit.*, Vol II. P.254.

<sup>99</sup> Earl Grey, *op. cit.*, Vol II. P120.



The New Zealand natives were actually farther removed from a state of civilisation than the South African Bantu, but differences of character and temperament brought that state nearer much more quickly. The Governor, Sir George Grey, encouraged it by furthering intercourse in every possible way, by inclusion of the chiefs and outstanding younger men in an armed police force and in minor offices in government establishments, by admitting the natives to the hospitals, encouraging their use of savings banks, educating them in industrial schools, employing them on the roads and advancing them in every direction. Missionary endeavour in the islands gave immense impetus to that work.

The civilisation of the West African and West Indian natives was sought under the guidance of the Secretary of State without the amalgamation of Europeans and natives. British dominion on the Gold Coast was limited to the old slave forts and the distance of a cannon shot, but England's influence and authority extended over some four hundred thousand natives, four times the native population of Natal. Many customs repugnant to the principles of humanity had to be tolerated, of necessity, for the whole work of administration was carried out by the British magistrates stationed in the isolated forts. Disputes were brought by the native chiefs and decision made according to the native law and custom, qualified only by those plain and universal principles of justice, which Earl Grey believed even the most ignorant races understand when explained to them<sup>100</sup>. By this means a considerable amount of progress was achieved. Internal wars ceased after their punishment by the united strength of the several chiefs under the direction of British officers. Witchcraft and other barbarous practices gave way as the decisions of the magistrates redressed the notions of right and wrong. Trade and industry increased and the fruit of educational and missionary endeavours began to assume considerable proportions.

A great difficulty faced Earl Grey in the West Indies. The abolition of slavery left the negroes with no incentive to work when coercion had been withdrawn. They found they could earn as much in three or four weeks as they had been allowed in a year as slaves. They had subsisted on that small amount as far back as they could remember and saw no reason for working after they had earned that sufficiency. The planters had to have labour and offered increasingly high wages to attract it. As wages rose, the supply of labour correspondingly fell. Earl Grey tried to remedy that artificial basis on which the sugar industry stood, by doing away with high wages through the repeal of the sugar duties. Competition with foreign sugar on the English market forced the West Indian planters to lessen the cost of production. It was bound to hit them at first, but the statistics covering the years from 1846 to 1851 show that a slight increase was made in the consumption of British as against foreign sugar<sup>101</sup>. Over the period of crisis the merchants obstructed the government policy to their best extent. Consequently when Earl Grey designed parallel measures to stimulate the industry of the negro labourers, less progress was made than was expected. He tried to maintain order and security and prevent vagrancy on the same lines as he had in Natal, the extension of roads and the erection of hospitals, schools and places of worship. He proposed the imposition of a direct tax in order to forward the development of these civilising agencies by its proceeds, as well as to force the negroes from their state of idleness into work to earn money to pay their taxes or the equivalent in labour. He preferred to levy this direct tax in place of an import duty, that there should be no decrease in the use of civilised articles.

The revenue in New Zealand, on the other hand, was derived in bulk from customs duties. The returns for the year 1850, with a revenue of £48,945 on imports and £115,441 on exports, prove that the imposition of customs duties had not discouraged the acquisition of European imported goods by the natives in that colony, for the revenue on imports more than doubled itself in the four years preceding 1850<sup>102</sup>.

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<sup>100</sup> Earl Grey op. cit., Vol. II P.271.

<sup>101</sup> Earl Grey op. cit., Vol. 1 P.93.

<sup>102</sup> Earl Grey op. cit., Vol. II P. 135.

The presence of a Dutch community on the borders of British territory in West Africa rendered a duty on imports out of the question, because co-operation was refused. Therefore Earl Grey resorted to the imposition of a direct tax, as in South Africa and the West Indies. In 1851 the chiefs and tribes under British protection agreed to pay a poll tax of one shilling and the consequent revenue reached an annual sum of £20, 000. Taking into consideration the fact that Parliament so far had never exceeded an annual grant of £6,000, Grey was confident that the increase would make a great advance possible in the next few years<sup>103</sup>. Perhaps of greater significance still was the fact that the tax had been officially ratified by a council, representing the authority of the chiefs, working in combination with the Governor and his Council, and that same combined council undertook the collection of the tax. Earl Grey wrote of this assembly with great enthusiasm. "I am persuaded that I do not over-rate the importance of the establishment of this rude Negro Parliament, when I say that I believe it has converted a number of barbarous tribes possessing nothing which deserves the name of a government, into a nation, with a regularly organised authority and institutions simple and unpretending, but suited to the actual state of society and containing within themselves all that is necessary for their future development, so that they may meet the wants of an advancing civilisation<sup>104</sup>.

There is no doubt that one of the most important features of the native policy of Earl Grey was the realisation of the practicability of a direct tax in one form or other. It served a twofold purpose. To the idealist it gave greater scope for the development of his theories in the colony. He was able to watch the erection of hospitals and schools, improvement in trade and industry, the advance of the intellectual and moral education of the natives, upon all of which depended the extension of civilisation. Each step forward brought nearer the possibility of real co-operation between the Europeans and the natives. To the practical colonial secretary, it meant satisfactory accounts from the colony and a return for the outlay made previous to its imposition, a very sure test for the soundness of his measures.

In spite of general success to which figures everywhere had borne testimony, Earl Grey worked with considerable opposition in the face of many difficulties. The greatest obstacle in his path was the apathy of the House of Commons and its ignorance of colonial affairs. When colonial debates took place, attendance, as a rule, was very poor and the speeches gave evidence of widespread ignorance<sup>105</sup>. In April 1851 the subject of the Kaffir was introduced and the Government policy was criticised in this way. "Our policy with regard to the Kaffirs had also been a very main cause of the war. We had imposed quit rents, we had prescribed limits between them and ourselves and we had taken away the authority of their chiefs, offering them money instead, as though that could be viewed by these savages as any equivalent for the barbaric pomp and state of their chiefs"<sup>106</sup>. Again in 1848 a member stated that both the former and the latter wars might have been prevented had just regard been paid to the rights of the aborigines. Such apparent ignorance of fact led the Under-Secretary for the Colonies to say openly in the House, "It is not discussion upon colonial policy or colonial affairs that

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<sup>103</sup> Earl Grey op. cit., Vol. II P.284.

<sup>104</sup> Earl Grey op. cit., Vol. II P. 286.

<sup>105</sup> See the Edinburgh Review (July - October 1853). "The number of members who are well-informed upon any colonial question, which is the subject of debate, is always very small and unless the question can be drawn into the party contests of the day, the debate takes place before a thin and inattentive audience, whose knowledge of fact is limited and confused" P.78 . The Lieutenant-Governor of Natal emphasised these circumstances as a point in favour of representative government, whereby they would find remedy. He drew up the following argument: "As to this (the government of the natives) Her Majesty's Government has now to consult, to some extent, public opinion in England, which, owing to the want of correct information, may be very erroneous, but if public opinion in the colony could be given a constitutional voice, surely it would be listened to at home and sensible men there would think that their fellow subjects on the spot were better able to form an opinion on the subject than they could possibly be able to do". PP No. 25 in 1854, Pine to Pakington, 28<sup>th</sup> September 1852.

<sup>106</sup> Hansard CXVI, 15th April 1851. Speech by Mr F Scott.

I dread, but it is the ignorance of the public and the misrepresentations that are constantly being made of colonial possessions and the state and condition of our colonies, that I wish to guard against and to apprehend most"<sup>107</sup>.

Not only was the House of Commons as a whole ignorant of colonial affairs, but the same short-coming was even attributed in the House to Earl Grey. Sir William Molesworth in connection with the War of the Axe is reported to have said, "Thus the loss of one axe and two goats on the frontier of the Cape of Good Hope has cost this country a couple of millions sterling. I attach no blame to Lord Grey or his predecessors on account of this war; it is clear from their despatches - I trust they will pardon me for saying it - that they were helpless ignorant - and I believe Lord Grey was as much astonished as any man when he heard the amount of the bill to be paid"<sup>108</sup>.

There was a certain amount of truth behind the above speech, but it was not what the speaker wanted to convey. The Colonial Office was not ignorant of its facts on the score of negligence, but great difficulty was experienced in collecting authentic information. The Governor, as commander-in-chief of the colonial forces, saw the war from a very short range and his reports were bound to fall short in perspective on this account. Even then, communication between the frontier and centre of government was only maintained at uncertain periods by coasting vessels and at more regular intervals through Kaffir territory, but with greater risk in time of war. Nor was communication between Cape Town and London any more regular so that delay in forwarding despatches often put them out of date. The Colonial Secretary in the Cape Town office did his utmost to supply the omissions of the Governor. Proof of this is to be found in the following letter: "I have written to Mr Hawes by a vessel which went yesterday morning informing him exactly of the state of affairs and giving him all the information in my power. I made some extracts from your note to me and sent them to him as I did with some other letters I received, as I deemed it prudent to give him every possible detail of information. I am much obliged to you for writing to me. Pray continue to do so regularly every week as am most anxious to get authentic information and it is of importance that I should know the real state of the affairs in every way"<sup>109</sup>. A similar value for authentic facts is shown in a letter to the Editor of the Grahamstown Journal from his nephew who was acting for him. "The account of the meeting of the Kaffir chiefs which you will find in the Journal of today, was furnished by Mr McDermott ... I should not have [inserted it] had it not come from so good a source"<sup>110</sup>. Actually Earl Grey, on one occasion, was censured in the House of Commons for taking information relative to the Colony from no other quarter than from Sir Harry Smith while reports came to him from every part warning him as to the designs of the native tribes<sup>111</sup>. In actual fact each despatch that came from the Governor contained lengthy letters addressed to him, or the Lieutenant-Governor, from minor government officials, colonists of recognised standing, missionaries and even forwarded correspondence between the Europeans and the natives. Expression of every point of view reached the Colonial Office and was acknowledged with approval or criticism of the subjects raised.

Earl Grey had not only found ignorance of facts in Parliament and consequently in the Press, but complete misunderstanding as to the goal of his policy, so biased was the public in its outlook towards the colonies. His whole purpose in writing an account of the colonial policy of the administration to which he belonged, was to give the public, not Lord John Russell, a sketch of the policy, the views on

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<sup>107</sup> Hansard CIV, 16th April 1849, Speech by Mr Hawes.

<sup>108</sup> Hansard XCIX, 25th July 1848. Speech by Sir W Molesworth.

<sup>109</sup> Godlonton MSS. Montagu to Godlonton, Colonial Office, 6th January 1851.

<sup>110</sup> Godlonton MSS. R. White to Godlonton, Grahamstown, 14th February 1852.

<sup>111</sup> Hansard CXVI, 15th April 1851. Speech by Sir Charles Adderley. It is significant that departure from the usual method was made for the first time in January 1852, where Earl Grey addressed a despatch directly to the Lieutenant-Governor of Natal instead of sending it through the care of the Governor at the Cape. The first return by the same method occurred in May 1852.

which it was founded and its results<sup>112</sup>. The analysis of the views on which Earl Grey based his native policy gave emphasis to the opportunity offered to England by the number of native races under her control and to her duty to work for their civilisation. He gave a careful account of the schemes he had designed to this end when the white and black communities, in a colony like Natal, would amalgamate and live together with mutual advantage under the security of civilised laws. A contemporary review of the book misunderstood the amalgamation of communities for the amalgamation of races and criticised it accordingly. "In all wishes for the ultimate civilisation of the black tribes of southern Africa, we heartily concur; but we cannot look forward with satisfaction to such an amalgamation of races as will efface the separate existence of a white population; nor indeed do we consider it certain that a mixed or mulatto race can be permanently continued, without fresh infusions of the blood of an unmixed race. Experience seems to show that where these renewals from the original stocks do not take place, the characteristics of the preponderant race obtain an exclusive dominion and that those of the minority are gradually extinguished"<sup>113</sup>.

In contemporary opinion, then, credit for success would be attributed to Earl Grey on the score, not of native policy, but colonial trade and that was not an unqualified credit by any means. The application of free trade to colonial produce had not won general acceptance during the few years of its practice. A very large measure of success had attended his native policy almost generally, and particularly in Natal, but the public was not able to understand the principles underlying it and therefore could not appreciate it in full. This was rendered all the more difficult in that the immediate effect of the application of his measures was not the end that Earl Grey planned, but only a step on the way. His instructions left a great deal to be taken on trust. The direct tax, for example, was new to the minds of the colonial officials and they delayed its imposition because they were not confident about its success, but its results allayed all their fears. Another vital part of the whole policy concerned the authority of the chiefs with which native law was temporarily maintained and that policy was widely questioned. To some critics it meant the resumption of former tyranny whereby civilisation could be retarded; to others, it placed authority in hands, whose authority was not recognised. Justification for this measure came in recent years. By an Act of Parliament in 1898, the native chiefs now hold original jurisdiction according to native law in all civil native cases between natives of their own tribes, or in which the defendants are members of their own tribes, except in matrimonial cases. They are similarly placed in regard to native criminal cases, but crimes new to native law and custom and crimes punishable by death are reserved<sup>114</sup>.

With the exception of the authority of the chiefs in continuance of native customs, Earl Grey's views with regard to native policy in Natal were the same in 1852 as those he had held when he assumed office. The fact that they had not changed after six years' practical experience pays tribute to their soundness. His method of execution necessarily changed for it depended not only upon himself and his colleagues in England, but upon changing circumstances in the Colony and the different officers of government who were responsible for the administration of the district. It is to the credit of the Secretary of State that he was able to realise when changed conditions had put him in the wrong and readjust his views accordingly. Moreover he was fortunate in that the Natal officials who worked under his instructions possessed real ability and he was quick to appreciate their worth. The results of his native policy in its whole conception were not apparent by the time Earl Grey resigned office and therefore tribute was not paid to him. The history of native policy in the later part of the nineteenth century was based in part upon measures for which he had prepared the way. Certain departures in principle were made, but the development of his or other principles were impossible without ample means and that provision was made by Earl Grey by putting, (as he did) colonial finance into a healthy state by his native policy.

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<sup>112</sup> Earl Grey, *op. cit.*

<sup>113</sup> *Edinburgh Review* (July-October 1853) P.95.

<sup>114</sup> Sweeney, *Statutes of Natal*, Act No.49 in 1898 Ch.IV

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List of Abbreviations & Methods of Reference

P.P. No. 65 in 1848 = Parliamentary Papers published by command of Her Majesty relative to the settlement of Natal, Despatch No. 65 of the volume printed in 1848.

P.P. No. 171 in 1848, Kaffir Tribes = Parliamentary Papers published by command of Her Majesty relative to the state of the Kaffir Tribes on the Eastern Frontier of the Colony, Despatch No. 171 of the volume printed in 1848.

1852-3 Natal Native Affairs Commission = Proceedings of the Commission appointed on 25th September 1852 to enquire into the past and present state of the Kafins in the district of Natal, and to report on their future Government.

1847 Natal Native Commission I = First report of Commissioners for locating the natives, presented by command of the Lieutenant-Governor, 30th March 1847.

1847 Natal Native Commission II = Second report of Commissioners for locating the natives, presented by command of the Lieutenant-Governor, 1st October 1847.

1851 Natal Native Committee = Report of Committee on relations between this country and other tribes on our South African frontier, appointed by command of Her Majesty, 2nd August 1851.

Macmillan B.B.B. = Macmillan, W.M. , Bantu, Boer & Briton. 56

List of Proper Names Occurring in the Text

Lord John Russell - Prime Minister, 1846-1852  
Lord Stanley - Secretary of State, 1830-1834  
Lord Glenelg - Secretary of State, 1835-1839  
Earl Grey - Secretary of State, 1846-1852  
Hawes - Parliamentary Under Secretary  
Sir W. Molesworth - Member of Parliament  
Sir Benjamin D'Urban - Governor of the Cape, 1834-1837  
Sir George Napier - Governor of the Cape, 1839-1844  
Sir Henry Pottinger - Governor of the Cape & High Commissioner, 1847  
Sir Harry Smith - Governor of the Cape & High Commissioner, 1847-1852  
Major Hogge & Mr Owen - Assistant Commissioners  
Montagu - Colonial Secretary of the Cape  
Porter - Attorney General of the Cape  
Dr Philip - Superintendent of the London Missionary Society in South Africa  
Sir A Stockenstrom - Commissioner General at Grahamstown  
Colonel Mackinnon - Commander on Eastern frontier  
West - Lieutenant Governor of Natal  
Pine - Successor to West  
Cloete - Special Commissioner & Public Recorder of Natal  
T Shepstone - Diplomatic Agent of Natal  
P Retief & A Pretoria- Leaders of Trekkers  
Hingiswayo, Chaka, Dingaan & Panda - Zulu Chiefs  
Faku - Pondo Chief  
Moshesh - Basuto Chief  
Sir George Grey - Governor of New Zealand, 1845-1854