

**History and African Studies Seminar
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The Remarkable Mr. Peppercorne: (or Adam Smith in Msinga)¹

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ABSTRACT

George Ryder Peppercorne, one of a family of London stockbrokers, business men and engineers, was Secretary to the Vauxhall Water Works until he resigned in 1842 after a merger struggle between competing water companies. He took up the post of magistrate in Natal in 1850 bringing a range of legal and administrative skills and a liberal attitude to the Mpfana location over which he had been appointed. This brought him into conflict first with Natal's Diplomatic Agent Theophilus Shepstone, who was in the process of imposing his patriarchal views of colonial government, and then with Benjamin Pine the Lieutenant-Governor, who was attempting to enforce policies that would provide Natal's settlers with the African labour they believed was necessary for colonial prosperity. Peppercorne, using arguments in keeping with the demands of political economy, opposed both men, and as a result lost his job and his means of support, but left behind a remarkable record of his struggle against the ideologies that came to dominate colonial Natal.

¹ This paper is derived from three chapters of my "The Deceptions of History: Theophilus Shepstone and the Making of Traditional Authority" (hopefully forthcoming). The parenthetical subtitle marks the influence of two books in particular *The Essential Adam Smith*, (edited and introduced by Robert L. Heilbroner), (New York, 1987) and Giovanni Arrighi *Adam Smith in Beijing. Lineages of the Twenty-first Century* (London, 2007). However the subtitle is tentative and inserted as a suggestion for discussion on the way in which ideologies of political economy might be critically applied to colonial history, rather than an indication of a theme developed rigorously in the paper itself. It should therefore not be cited without permission.

The Vauxhall Water Works

The Vauxhall Water Works (VWW) was established in 1805 to supply water to customers in south London. After initial success it ran into financial trouble and by 1815 it seemed as if it would go under. One of its initial shareholders now a director, William Peppercorne, decided to turn it around. Setting himself up in a company house in the grounds of the works at Kennington, he intervened personally to initiate more effective financial and managerial control. He was, at least as he recounted it, successful and in 1826 an agreement was reached that he should occupy the house as Resident Manager.²

Two of its rooms became company offices and in time William became Chairman of VWW and his son George Ryder its First Clerk and Secretary. With two more Peppercornes – Frederic Septimus, a surveyor and engineer,³ and James Watts, stockbroker, antiquarian and radical historian⁴ – on the Board of Directors it is clear that VWW was a public company in which family interest was strong but, by the late 1830s, not only the senior member but its plant was getting old. Iron pipes were needed to replace its wooden ones and the original engine at Cumberland Gardens was failing. And just at this time when capital and the number of water tenants on the company's books needed to be increased the VWW came under attack.

The three companies that supplied water to London south of the Thames, the Southwark Water Company, the Lambeth Water Company, and the VWW, were locked in competition for customers and they moved into one another's districts laying more pipes and poaching customers by offering reduced rates. The Vauxhall Water Works was convinced that its two rivals had combined against them in order to commit further "outrages on the public consumer" and by 1841 this was showing in the declining rolls of its collectors.⁵ At a time when expansion was necessary to block the activities of the rival companies the VWW lacked the capital even to retain its existing capacity to supply water. At a meeting in 1841 it was decided that steps be taken to see if an "amicable understanding" could be reached with the rival companies in order to end this "ruinous competition". But the move was opposed by William Peppercorne who argued that a merger would reduce competition amongst suppliers, and harm the interests of the company and its customers.

But there were members of the VWW's Board of Directors who disagreed. One of them, brought a separate case against William Peppercorne which came before the Master of Rolls in Chancery. While no fraud was proved, it was felt the transactions like this were open to fraudulent practice and Peppercorne was ordered to revoke the sale of stock and pay costs.⁶ An attempt to remove him in 1841 failed, but a resolution was carried at a meeting of the VWW directors that the court decision was "incompatible with his situation as a Director of

² London Metropolitan Archives. Greater London Record Office [LMA]. Acc 2558, Records of The Southwark and Vauxhall Water Company, SV/1/7/1, South London Water Works, Minutes of General & Special Assemblies 21 Feb 1831- 22 Feb 1842, Special General Assembly of Proprietors, 18 February 1837, William Peppercorne to Committee appointed by Proprietors of the VWW, 3 October 1836.

³ F. S Peppercorne, *Supply of water to the metropolis: A brief description of the various plans that have been proposed for supplying the metropolis with pure water.* (1840).

⁴ James Watts Peppercorne, *Testimonies to the Fertility of Ancient Palestine: comprehending the opinions and statements of authors from the earliest period to the present time, with incidental remarks upon the aspersions of the character of its inhabitants, and of the Jews* (London, 1838).

⁵ LMA. Acc 2558, General Meeting of the Proprietors of the Vauxhall Water Works Company, Kennington Lane, 14 June 1841.

⁶ Commonwealth Legal Information Institute. 1840 English Papers. Accessed at www.commonlii.org/int/cases/EngR/1840/. The case is of some importance as a precedent in the history of agency and company law.

the Company.”⁷ A Review Committee set up by the shareholders found that the accounts and the books of the company were badly kept, that its shareholders had been misled by “fallacious appearances of prosperity” in which “the spirit of competition had overcome the principles of prudence”, and that some sort of accommodation had to be reached between the three south London water works. A meeting of shareholders proposed that an attempt be made to reach an “amicable understanding” with the rival companies. The Peppercornes were under pressure. The Review reflected badly on the Company’s Secretary, George Ryder, and on his father as ex-chairman and William Peppercorne resigned his directorship in March. But the differences only increased when he refused to leave the company house, and the new Board of Directors did what it could to remove the influence of the Peppercornes from positions of influence. George Ryder Peppercorne’s position became untenable and he resigned as Secretary in June 1842.

It is impossible to say whether the defeat of the Peppercornes was due to their own shortcomings, or is better explained within the context of the shift from smaller more individually based capitalist enterprise in the direction of larger capitalist institutions. But it was felt that George Ryder spent time on matters unconnected with the duties for which he drew a salary. In 1838 he patented his “invention for an improved machinery” – by which the energy created by the forward motion of a drawn vehicle could be used to increase its speed and efficiency.⁸ Nonetheless, despite the criticisms in the Review of the company’s books and accounts, the records that have been preserved are clear and careful, and suggest the work of a methodical and informed mind. But the breaking up of the family interest in the VWW created serious personal and financial problems for the Peppercornes. Frederic headed for Australia where he worked as a surveyor and then to New Zealand where he practiced as an engineer.⁹

It was perhaps in the aftermath of Vauxhall Water Works merger crisis that George Ryder attempted a military career, for he was later provoked into signing himself as a “Captain in the Army of his Hellenic Army of King Otho”.¹⁰ Whatever had happened he and his wife Anne were on board the “Enchantress” when it was wrecked Cape Town in 1849. The ease with which the captain and crew removed their belongings persuaded Peppercorne that an insurance scam was involved in the way in which the vessel was safely run aground – and he petitioned the authorities in Cape Town about this. Nothing came of it – but perhaps it was the presence of a Natal settler on board that persuaded George Ryder to use his letter of recommendation from Earl Grey to seek appointment to a post in the colony. On the 22 August 1850, in Pietermaritzburg, administrative centre for the Colony of Natal, he received a letter from the Lieutenant-Governor Benjamin Chilly Pine, informing him that he had been

⁷ LMA. Acc 2558, Special Meeting of the Proprietors, 15 December 1841.

⁸From this distance it seem a somewhat eccentric idea “whereby the application of a certain combination of combination of machinery to effect the raising and suspending, or supporting quadrupeds for locomotion, on a carriage or framework supported on wheels, by which the whole of great part of the weight of the horse is carried by the interposition of certain springs, burs, girths and braces.” *The London Journal of Arts and Sciences and Repertory of Patent inventions*, XIII, (London 1839), “Peppercorne's. for Impts. in Locomotive Carriages”, pp.83-9.

⁹ He published widely and is now being cited in contemporary scholarship for his warnings on the detrimental ecological consequences of promiscuous forest clearing. <http://envirohistorynz.wordpress.com/2011/09/02/peppercornes-predictions-on-deforestation-and-climate-change/> accessed on 25 November 2011.

¹⁰ All dates and references to kin must be treated as provisional, and await further research. My suggestion that it was between his resignation from the VWW in 1842 and his arrival in the Cape in 1849 is based on the fact that King Otho (Peppercorne’s Hellenic spelling) only succeeded to the throne in 1832 and that George Ryder Peppercorne was employed as Secretary from at least 1833. There may of course be other explanations but only further research can tell.

appointed “Magistrate for the Impofani Native Location” instructing him to report to the Diplomatic Agent for Native Tribes, Theophilus Shepstone, for “Orders and Instructions”.¹¹

Pine

Pine had taken up his post as Natal’s second Lieutenant-Governor in April 1850. His first view of the colony was not encouraging – British settlers, still camped in makeshift shelters at the bay, unable to establish themselves on the land they had bought in a fraudulent emigration scheme. Land rights generally were in chaos: the result of a harebrained attempt by High Commissioner Sir Harry Smith to keep Boers in the Colony by offering grants of land – which only had the effect of opening it up to “jobbers” – land speculators. Thomas Elliot¹² in the Colonial Office in London commented that “if some convulsion of Nature had visited half of this fine country with sterility, it could not have been more injured than by the errors of its Ruler.”¹³

Pine set to work on both these problems with both energy and efficiency and by the end of the year when had dealt with the immigration difficulties and the land problems, he turned to local administration. Here he ran into opposition. His predecessor Martin West, from 1845 Natal’s first governor, had been mortally ill during his term of office allowing members of his Executive Council to pursue their own policies and their own interests. They all had previous experience in the Cape colony and, led by the Colonial Secretary Donald Moodie, enjoyed their new administrative independence in Natal. They were therefore not taken by the arrival of the new, assertive governor. Pine came to the conclusion that he was being deliberately frustrated by a cabal of ex-Cape officials – he called it “that vile Africanda faction” – and removed the records from Moodie’s office, insisted on first sight of official correspondence, and appointed Captain Gordon as his private secretary, drinking companion, and source of local gossip.

There can be no doubt that Pine, with his legal background, was an effective administrator. But his talents in this direction were undermined by his catastrophic personal failings. He was stubborn, self-aggrandizing, manipulative and deceitful, and in his attempts to get personal support he seemed to lose all judgement. He presented himself, obsessively, as man of action, quick to grasp a situation and even quicker to act upon it, and perceived the same qualities in his favoured officials. However what he saw as decisiveness was too often a violent and at times criminal recklessness. There were elements of paranoia in his make-up. His uncritical support of his allies was matched only by his hostility towards the conspiratorial cliques who united in their determination to destroy him. And in the background there are hints of a darkness, of a secret sexual life, seen at the time to be unmentionably immoral. During his first term of office in Natal he not only appointed a number of seriously flawed men, but he supported them long after they were demonstrably inadequate for the job, in one case a violent, racist, thief, and in another not just a thief but a drunken killer who was, literally, insane. George Ryder Peppercorne, just arrived and determined to start a new life and career in Natal, was however different.

¹¹ Pietermaritzburg Archives Repository [PAR]: Secretary for Native Affairs [SNA] 1/3/1 Peppercorne to Shepstone, 23 August 1850.

¹² Hayden, Albert A., 'Elliot, Thomas Frederick (1808–1880)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/elliott-thomas-frederick-2022/text2487>, accessed 24 November 2011.

¹³ The National Archive [TNA]: CO179/12. 6743, Minute by T F Elliot, 21 August 1850.

The Magistrates: Introduction

The man to whom Peppercorne was ordered to report was the Diplomatic Agent for the Native Tribes, Theophilus Shepstone. He was not a member of the Executive Council but had considerable influence over it and was privy to its decisions. Appointed in 1845 and still in his mid thirties he had impressed his personality and his policies on Natal's administration with his effective support for a policy that reserved tracts of land for Africans as "locations" where they were administered by their own chiefs under customary law. They were controlled by Shepstone from Pietermaritzburg, using his intimate knowledge of African history and politics. Shepstone was also secretive, and jealous of any interference in his sphere of operations. Pine was determined to break up the administrative clique of which Shepstone was a part, and bring him under his control.

To do this Pine sought allies amongst the settlers and he found them in the landholders, of Boer and British background, who felt that the policy of reserving land for Africans, and giving authority to chiefs, was responsible for depriving colonists of labour and therefore the colony of the opportunity to develop a viable economy. Shepstone on the other hand, argued that the African population of more than 100 000 had to be carefully treated by a settler population of under 10 000, and that the locations could not be simply broken up without provoking resistance which the colony lacked the resources to control. Pine went on to the side of the settlers, arguing that progress and civilization in Natal demanded the liberation of the labour locked up in the locations by the "Shepstone policy".

By September 1850 the Lieutenant-Governor was sufficiently free of urgent paper work to be able to deal with questions of local administration in Natal. He visited the one magistracy beyond Durban and Pietermaritzburg – the Klip river division – with its scattering of Boers, unhappy with what they saw as the insubstantial nature of British authority over a substantial African population, living where it liked and working only when it wanted to.

Pine was attracted to the Boers: strong, physical, men of action greatly appealed to him. He sympathised with their complaints and when he visited them in the Klip River division in the north of the colony agreed that British authority was insufficiently exercised. He transferred the magistrate and in his place appointed one Captain Johan Herman Marinas Struben,¹⁴ a man for whom he had "formed a very high opinion of his judgment and energy. The appointment is moreover acceptable to the Boers, who have a great respect for natives of Holland."¹⁵ Struben had been born there in 1806 and his life as a sea captain was one of quite extraordinary variety and adventure¹⁶ until his wife's ill health forced him to sell his yacht and move to South Africa bringing with him rumours of fraud and sharp practice. In September 1850 Struben moved to Ladysmith and took up the post of Resident Magistrate of the Klip river division.¹⁷

Of his lack of South African experience Struben wrote: "I confess that I have never thought this disqualified me from efficiently discharging the duties of my office" for he "had travelled much and seen a great deal of the world, and that I was conversant with many of the colored

¹⁴ Everything about Struben is suspect: I will nonetheless try and avoid constantly qualifying every "apparent" fact about him.

¹⁵ British Parliamentary Papers [BPP]: 1851. No.4, enc, Pine to Smith, 4 October 1850.

¹⁶ At least according to his son's *Recollections of Adventures, Pioneering and Development in South Africa 1850-1911*, (Cape Town, 1920)

¹⁷ PAR: Government House [GH]. 1558, Struben to Pine, 15 October 1851.

“races inhabiting it.”¹⁸ But Struben was a bully who fined and flogged Africans without regard for proper enquiry or process.¹⁹ Like Pine he was determined to get the Boers of the district onto his side. He supported their land claims, he punished their tenants, and forced labour as best he could. He became a landowner himself and sentenced those he convicted to work on local farms including his own, and kept or distributed to his favourites cattle he had seized as fines. He could generally be expected to flog an unwilling servant, or sentence another to farm labour and was popular with the Boers of Klip river and the first shopkeepers and entrepreneurs of the small, new, village of Ladysmith.

He was feared and hated by Africans. He took the standard Boer line: virtually no Africans were native to the country: they were almost all “mere refugees” from the Zulu kingdom. As “the advocate of the native race rather than its control” Shepstone was largely to blame for this. The locations were situated in the finest parts of the country, and included its most formidable defensive positions. As a result Africans were “insolent and turbulent”, although Struben felt that he had succeeded in “inducing in them a more respectful demeanour towards the white inhabitants.”

With Struben in the Klip River district Pine then began to extend government influence over the locations. It was an initiative taken too quickly and without sufficient planning. In August 1850 four magistrates were selected for the Inanda, Mvoti, Mpofana, and Mzinyathi locations, stretching from just north of Durban, inland of the coast to the Thukela, then upstream to the Mzinyathi.

It was largely Pine’s initiative but Shepstone went along with it – silently waiting for the failure that would demonstrate the consequences of insufficient consultation with his office. It was a move taken hurriedly and with insufficient care, but Pine was determined to make the presence of Government House felt amongst its African subjects. Except for the order that they collect statistical information, the magistrates were given no specific instructions, administrative backing, equipment – or budgets.

Lloyd Evans Mesham was to take charge of the Inanda location across the Mngeni river just north of Durban – the only appointment made on permanent terms. Shepstone had recommended that James Cleghorn be appointed over the Mvoti location which stretched along the north coast and over the high ground between the Mvoti and Thukela rivers. On his way there Shepstone wrote Cleghorn a letter saying that it was with “extreme mortification” that he heard that the man appointed on his recommendation “to guide and direct the moral and physical energy of thousands of barbarians, appearing in broad daylight and in the most public place of resort at D’Urban, in a state of pitiable intoxication.” On the same day he wrote a similar letter to the newly appointed magistrate of the Mzinyathi location, west of the river of that name and north of the Thukela, George Ringler Thomson. Shepstone had heard that Thomson had been drinking and “keeping native women”. He was waiting for a reply which would contain his “unequivocal denial”.²⁰

There is no record of it. Thomson was Pine’s appointee and in spite of increasing evidence that he was unbalanced Pine continued to support him as a counter to Shepstone’s overrated reputation. Not only had Thomson been furnished with a testimonial from within the Colonial

¹⁸ PAR: GH. 1558, Struben to Pine, 15 October 1851.

¹⁹ Much of my information comes from a reading of the admittedly hostile reports of Struben and Pine’s activities in the (incomplete) microfilm of *The Natal Witness* in the Killie Campbell Africana Library.

²⁰ PAR: T. Shepstone papers: File 67, Shepstone to Thomson, 28 October 1850, Private.

Office itself but he was a brilliant scholar and linguist, with a published article in a scientific journal.²¹ Pine defended this Gentleman and Scholar to his miserable, murderous end, shipped home, mentally unable to stand trial for fraud committed as an officer in Natal's service.

The two most remote, most difficult of access, locations were those that became associated with the Msinga district, the Mzinyathi and Mpofana locations. And of these the Mpofana was the most remote and inhospitable – arid, broken, thornveld sunk in the deepest part of the vast and precipitous Thukela valley and wedged between the Zulu kingdom and the Boers of the Weenen and Klip river districts.

As in so much of Natal, time and distance are deceptive. Today a car journey from Pietermaritzburg to Mpofana would take something like two hours. Then a hardened messenger on foot could cover the distance in four days – quicker than a letter now. It is the configuration of the landscape that makes so much of it apparently remote, the formidable topography so difficult to negotiate, and the contrast between the dry, inhospitality of the valley, and its soft, misty surrounds so marked.

The difficulties notwithstanding, Peppercorne was keen and eager, determined to do the job as best he could. He was observant, clear in the way he expressed himself in writing, well-versed in administrative procedure and the legal conventions by which it was practised. In spite of Pine's determination that the magisterial posts should not be seen as permanent, Peppercorne hoped that he could prove himself and secure a position. But the contrast between his enthusiasm and the desire to please his superiors and Shepstone's offhand response was apparent even before Peppercorne left Pietermaritzburg. When Peppercorne asked just where his magisterial authority extended Shepstone

indicated the position of the location by putting his finger on Dr. Stanger's map over that part where the three rivers [the Mpofana, Mzinyathi and the Thukela] meet and telling me that Mr. Thomson's location was on the other side of the Tugela.²²

The Mpofana location.

In September 1850, their wagon packed with possessions, the Peppercornes made their way in a northerly direction beyond the upper-Mvoti over the well-watered, higher grasslands to which most settlers in Natal were accustomed. Then, to George Ryder's great surprise the high ground fell away, revealing the steep sides of a vast valley, its depths marked by the convoluted course of the Thukela river. He was completely unprepared for it:

I had no knowledge at this time of the totally distinct nature of the tract of country forming the Location ... I found the road rapidly descended a deep ravine, quite impracticable for the waggon which was heavily loaded....

[The landscape was] of a totally different character, rapidly breaking away into precipitous steppes and ravines down to the Impofana almost wholly denuded of pasture or vegetation, except for stunted thorns, at this season quite leafless.

I conceive this tract of country quite unfit for occupation by Europeans, although it affords to its native population, patches of soil at intervals suitable for tuber cultivation, but almost wholly dependent on the rainy season for irrigation production. The precipitous nature of the country - rapidly carrying off the water to the Impofana, and the little that remains in the winter is insufficient for artificial irrigation.²³

²¹ "On the Position in which Shells are found in the Red Crag", *Quarterly Journal of the Geological Society*, January 1849, v. 5, pp.353-354.

²² *Records of the Natal Executive Council, 1849-1852* (Cape Town, 1962) [NEC], III, p.322.

²³ PAR: Secretary for Native Affairs [SNA], 1/3/1, Peppercorne to Shepstone, 30 September 1850.

Peppercorne's first impressions were correct. It was inhospitable terrain, dry, broken, stony, bush and stunted thornveld, with scattered, small tracts of cultivatable land near the damp but often dry river and stream beds. It was a location of extremes: hot, dry, subject to drought, the winter nights freezing as the heavy cold air over the Drakensberg poured into the valleys below. To the north-east, on the other side of the Thukela, were the high, dense, forest-covered slopes the Qudeni and the Zulu kingdom: along the lower reaches of the Thukela was the Mvoti location under the drunken James Cleghorn. To the south and west the location covered higher ground, skirting and mixing with Boer farms, few of them occupied by those who claimed to be their owners, and all with numbers of African homesteads whose tenancy was based on some sort of verbal understanding (or misunderstanding) with the farmer to supply labour. To the north across the Thukela river was the Mzinyathi location under the drinking, flogging, fornicating George Ringler Thomson.

Peppercorne built as close as he could to the centre of his location as he could: if he had to labour "under a choice of disadvantages and difficulties" so be it: his greatest anxiety was "to be at once in direct communication with the inhabitants of the Location." Like all locations it is extremely misleading to see them as being made up of complete tribes or specific chiefs – as always there was a mix of people from different backgrounds and under different *amakhosi*. Shepstone knew he couldn't define their territories with any instrument more precise than his finger on a very inadequate map. The people of the Mpofana location were organised in comparatively cohesive chiefdoms, based in the first instance on personal allegiance not territorial occupation, under *amakhosi* who played major roles in the history of the region and were well known. Just across the Mpofana was Phakade kaMacingwane *inkosi* of the large and powerful Chunu.²⁴ With his father he had fled from the Mzinyathi valley early in the 1820s in an unsuccessful attempt to escape the attentions of Shaka. Later Phakade returned to give his allegiance to the Zulu king but his relationship with the Zulu royal house was fraught, and in September 1839 he had been attacked by Mpande.²⁵ Nonetheless the Chunu stuck to their land on the borders of the Zulu kingdom.

When in 1846 Shepstone had explored the area with a view to establishing a location²⁶ he met the two other *amakhosi*, who dominated the vicinity of junction of the Thukela and the Mzinyathi. Magedama kaKhopho of the Khabela and Somahashi kaNzombane of the Bomvu informed him that in return for their loyalty they expected protection against any raids across the Thukela by the Zulu. Magedama was "remarkable" in that he had used the riverine thickets and precipitous bush-covered terrain to keep the Khabela in possession of their lands throughout the reigns of all the Zulu kings.²⁷ Somahashi's father had been killed by Shaka on the interesting grounds that he was so handsome that the Zulu king felt he looked like a toad in comparison but Somahashi decided to give allegiance to Shaka's successor Dingane saying that he could not continue, to "*konza* to a mere bush (*ihlati*)".²⁸

Although the *amakhosi* with whom Peppercorne was most directly concerned were Phakade, Somahashi and Magedama, it has to be stressed that their territory was defined by where their people, the people who had given their allegiance to them, lived. In terms of land as property

²⁴ *The James Stuart Archive* eds. C. Webb and J. Wright (Pietermaritzburg and Durban, 1979), II, Magidigidi kaNobede, p.85 and Bryant, *Olden Times*, Chapter 32.

²⁵ Bird, *Annals*, I, 543.

²⁶ PAR. SNA, 1/1/8. Shepstone to Moodie, December 1846.

²⁷ A point made by Shepstone at the time, and on which A.T Bryant agreed.

²⁸ These details are taken from the evidence of Singcofela kaMtshungu in *The James Stuart Archive* eds. C. Webb and J. Wright (Pietermaritzburg and Durban, 2001), V.

in itself, the precise borders of the Mpopana location (except for the riverine boundary with the Zulu kingdom) were not known. The assumption was that the location began where the Boer farms stopped – but many of the claims to Boer farms had yet to be established, others were not occupied by those who claimed them, or occupied for certain parts of the year, and not necessarily by those who claimed to own them. Peppercorne was astounded by this. He had come with the idea that the locations consisted of land reserved by the colonial administration for Africans of aboriginal origin. Instead he found that on one Boer farm there were two homesteads “the inhabitants of which are not AmaZulu refugees, but aboriginal, who have occupied the place for at least 2 generations.” But more than this, what offended Peppercorne’s mid-nineteenth century liberalism was that Africans were expected to work for the privilege of residing on these farms – unfree labour in a British colony – “they must either remain in a species of private serfdom, or abandon their birthplace....”²⁹

Concepts of law

At the end of October Shepstone sent out a Memorandum of Instructions to the new magistrates.³⁰ It wasn’t of much practical use. African labour had to be encouraged and where possible, labour contracts should be fair in content and in implementation, magistrates must strive to bring the benefits of civilized rule to the locations and so forth. More interesting is Shepstone’s formulation of his profoundly paternalistic philosophy of native administration and the gradualist policy by which separation would lead to assimilation:

While humanity, and especially the injunctions of our religion, compel us to recognize in the natives the capability of being elevated to perfect equality, social and political, with the whiteman, yet it is as untrue as it would be unwise to say, that the native is now in this position, or that he is in his present state capable of enjoying or even understanding the civil and political rights of the whiteman.

Her Majesty’s Government has most wisely recognized and acted upon this principle by providing a form of government for the natives of this district, which while adapted to their present conditions, is capable of being so modified as to advance their progress towards a higher and better civilization.

There was no attempt to outline the laws to be applied or give a list of offences and penalties. Everything depended on the nature of the case and the magistrate’s capacity to do justice with the facts before him: “Substantial justice must be accorded them in every case they feel it necessary to bring before the magistrate; and while they remain in their present state, this is all they look for or require.”

In other words let the natives get on with it unless they ask you for help and then sort it out. But for a significant number of Africans the presence of the magistrate offered an alternative court of appeal especially to the disputes over cattle which had their origins in differences over rights of inheritance and pledges on marriage in and amongst homesteads. From the time they took up their posts the magistrates were seen as potentially useful intermediaries in local conflicts. And not just Africans: neighbouring private land owners appealed to them for decisions on their boundaries, for the return of livestock they alleged had been stolen, and for the enforcement of labour agreements.³¹ It is little wonder that within weeks the magistrates were caught up and floundering in all the complexities of civil cases expressed in terms of kinship and marriage obligations and cattle ownership which few of them had the capacity to

²⁹ PAR: SNA, 1/3/1, Peppercorne to Shepstone, 20 October 1850.

³⁰ PRO: CO879/1. 1855, Despatches. Reports. &c. relative to the Management of the Natives. No.5, enc.1, Shepstone, Memorandum of Instructions, 29 October 1850. Early in October the magistrates received a copy of the new Masters and Servants Ordinance which did not however define the powers of the Location Magistrates.

³¹ PAR: SNA. 1/3/1, Peppercorne to Shepstone, 30 September 1850.

understand, forcing them to draw on the advice of the chiefs who were often party to the cases themselves, or the increasing powerful, astute, and often corrupt interpreters and indunas who became so important to the magistrate's court.

Peppercorne however did his best. He took his new responsibilities seriously and asked for guidance, unaware that neither Pine nor Shepstone were especially concerned with the practical problems confronting an obscure official in a remote and irrelevant corner of the colony. But his questions were intelligently put and demanded something of an answer and Shepstone outlined one of the fundamentals of his policies with unusual clarity. "With very few exceptions," Shepstone replied, "the population of your location is made up of organized tribes...."

You must always bear in mind that the object of your appointment over them is not to *destroy* the power of hereditary chiefs, but to control the exercise of that power, where the tendency appears to you inimical to the government and to the dictates of common humanity. In your appointment, therefore, the government contemplated investing you more with control over them *collectively* than *individually* or personally; that is, that your management of the natives under you, especially in cases of dispute among themselves, should be through their chiefs, rather than by direct interference on your part....

Where the chiefs find their authority disputed, they will bring the matter before you for the weight of your authority in favor of their decision; which if on examination you see fit to confirm, it will be sufficient in most ordinary cases; and should it ultimately become necessary to exercise force, the power of the chief will be on your side and at your disposal.³²

Peppercorne reacted immediately. He understood such a policy. He even had experience of it directly himself – elsewhere,

in another country, whose social relations were but little more developed. I know that the abrupt abrogation of the control of hereditary or acknowledged chiefs, was followed by the most pernicious effects; letting loose, as vagrants or brigands, a population which had been previously organised in clans.³³

While not discouraging those chiefs who asked his advice Peppercorne said that he would let them understand that it is their duty, and they are competent to decide such cases themselves, upon their own responsibility; and not seek to cover their own foredetermination, by trying to obtain my sanction to their own acts, and that the parties on either hand will have a right of appeal to me in this Location.³⁴

But Peppercorne were soon confronted by the practical difficulties of implementing a judicial process in a society where punishment was prompt and which lacked the facilities for holding the accused for any length of time. Thus when the chief Somahashi Bomvu referred a man accused of witchcraft to Peppercorne he did so by delivering him assaulted, starving and so tightly bound that his arms were beginning to "mortify"

and had not Mrs Peppercorne & myself fed him and bathed his wounds to the great repugnance of all around, my servants included.

Although this is very repugnant to humanity, I do not think that it was deliberate or intentional cruelty, but arose partly from the awkwardness of the manner employed to secure the man, and from excessive fear lest he should be able to do any mischief - and as such cases may arise again and others really requiring restraint, I would request that I may be furnished with one pair at least of hand-cuffs - as I could not erect a building sufficiently strong to prevent the escape of a criminal, were he so disposed.³⁵

³² NEC, Meeting 88, Annexure 4, enc.1, sub-enc.1 Documents put in by Peppercorne. "Memorandum on locations and jurisdiction of Kafir magistrates...." which quotes extracts from Instructions by Shepstone, 16 October 1850, p.322. I note in passing that it is statements like this that have persuaded me that the use of either direct or "indirect rule" are not merely irrelevant but misleading in any study of Shepstone's policies.

³³ PAR: SNA, 1/3/1, Peppercorne to Shepstone, 20 October 1850.

³⁴ PAR: SNA, 1/3/1, Peppercorne to Shepstone, 6 December 1850.

³⁵ PAR: SNA. 1/3/1/, Peppercorne to Shepstone, 16 January 1851.

But even if he had been unable to extract from Shepstone the crudest of instruments for control, he did have a clear statement on the principles on which he was to operate – to intervene in chiefly administration only when it was a necessary, and to support chiefs when he could.

December 1850 – Magedama Khabela

Although Pine's intention was to get a modernising grip on what was to him clearly an inadequate administration he paid more attention to results than the means of obtaining them. On 5 November the magistrates were instructed to produce monthly, quarterly and yearly returns on such different matters as acres of land under cultivation, contracts entered, cattle numbers and a summary of cases he had adjudicated, and population according to gender. It was pointed out that this was difficult without forms, stationary, or any precise idea of boundaries.³⁶ Peppercorne showed more initiative and at the end of December 1850 decided to prepare the way for the census by visiting the *inkosi* Magedama Khabela.

To reach the chief he skirted the southern fringes of the Boer farms. Here he came across twenty five African homesteads occupying both sides of what was believed to be the boundary. This raised problems for the collection of accurate statistical information for a start. These were compounded when he discovered that the occupants were not under any of the three recognised chiefs in the area but were Zondi whose *inkosi*, Dibinyika kaDlaba lived in the Zwartkop location near Pietermaritzburg. It was obviously difficult to provide statistics for a people of whose presence he had not been informed, who lived on location and private land, and whose chief, through whom he was supposed to exercise government authority, lived 100 kilometres away.

But when he arrived at *inkosi* Magedama's homestead the magistrate was confronted by another difficulty. So far he and the chief had got on well. Magedama was the one chief who had paid him a welcoming visit when he took up his post, and the magistrate had forewarned him of the proposed census. But from the way he was received it was immediately clear to Peppercorne that something was wrong. Magedama sat silent for a time, and then said

that it was very bad news, - or warm news, - why did the Governor want to know what every man possessed, if it was not to take their cattle from them; he objected also to giving the number of women; he said, you had already the number of kraals & the number & names of the men, who had paid their tax; what did you want more?

Peppercorne tried to explain that effective government required statistical information. It was no use: Magedama was not to be moved; "He replied that if, one was born, another died, & seemed to suppose the population stationary." Peppercorne tried different tacks – planning needed statistics, reasonable instructions had to be obeyed – but neither Magedama, nor his counsellors would budge. The situation was not angry but it was tense, the consultations characterised by a gloomy passive resistance. In the end Peppercorne decided not to press matters:

As Magedama's deportment & manner was perfectly respectful and courteous, I felt that it would be impolite, to put him in the dilemma of giving a decided negative or affirmative, especially in the presence of his men, and that if he acquiesced reluctantly, the object of Government would be frustrated in some other way....

Fear of being seen as "impolite" was not a characteristic feature of Natal magistrates' reports at any time in their history – indeed it sets Peppercorne's discussion apart from the

³⁶ PAR: SNA 1/4/1 Mesham to Shepstone, 27 November 1850.

conventional colonial report. Peppercorne told Magedama that he would first sound the opinion of the other chiefs before making a considered reply. This was clearly a considerable victory for Magedama and allowed him to be cautiously magnanimous:

The next morning at day-break, Magedama called on me with his chief man only; he spoke apologetically & trusted that I considered that his heart was good - towards yourself [Shepstone] and Government. We parted on very good terms.

My sense from the report is that Magedama was not just being conventionally diplomatic and there was a hint that mutual respect was developing between the two men. But this did not apply to the people generally. On his way back to his camp Peppercorne was abused by the Zondi: why did he want to count women – did he want a wife? Peppercorne was concerned and wrote to Shepstone that he thought that

it advisable to delay this business, as I have little doubt that the same feeling pervaded the other sections of the Location, & that any failure, will prove very inconvenient hereafter.³⁷

But there was no need for this advice. Shepstone, had already cancelled the cattle census and a letter was on the way telling the magistrate so. Peppercorne concluded, correctly,

that similar difficulties to mine, have arisen elsewhere. The registry of cattle seems the most obnoxious feature; but I still expect difficulty in the registry of women & girls, & that without some very decided message, the object of Government will be frustrated, or evaded.³⁸

The Zulu Contingent

Peppercorne was correct in his suppositions. Similar difficulties had indeed arisen elsewhere – and Shepstone was soon to add to them. On 26 December 1850, in the eastern Cape Governor Sir Harry Smith found himself, without water or supplies, besieged in Fort Cox by the Xhosa at the beginning of the long and dreadful 8th frontier war. Early in the morning of 11 January 1851 Benjamin Pine was woken by the arrival of an urgent message from Smith. He wanted a “Zulu contingent” of 1, 2, or 3,000 men to be mobilised and marched south to relieve the pressure on British forces by attacking the Ngqika Xhosa from the rear. His old friend Mr Shepstone “could easily organise the aid I require”.³⁹ Shepstone agreed to the instruction immediately and sent out messengers to inform the chiefs to mobilise.

Shepstone was a clever man – and a devious one – nothing he said or wrote should be taken at face value. He had no intention of despatching any men from Natal to assist Harry Smith against the Xhosa. He knew what should have been obvious to anyone with any strategic sense. It would have been impossible to persuade thousands of Africans leave their homes and march over 600 kilometres to fight people for whom they had no enmity. And even if they had agreed to it, such a march would have raised insoluble logistical problems. They would have had to support themselves by raiding the villages which they passed – spreading not confining the conflict with unforeseeable consequences. Regardless of it being impractical and dangerous the instruction would have been impossible to carry out.

Why then did the two men on the spot who were responsible for replying to Smith’s order agree to it? Pine did so through mindless obedience, massive ignorance, his psychological attraction to men of “action and energy”, and the desire to be associated with the military glory implicit in the name of Sir Harry Smith of Aliwal. What of Shepstone? Ridiculous as it was, the order was nonetheless an expression of confidence in his ability to command the

³⁷ PAR: SNA, 1/3/1, Peppercorne to Shepstone, 30 December 1850.

³⁸ PAR: SNA, 1/3/1, Peppercorne to Shepstone, 1 January 1851.

³⁹ *Records of the Natal Executive Council, 1849-1852* (Cape Town, 1962), II. Meeting 74, Annexure 1, Smith to Pine, 26 December 1850.

obedience of the thousands of Africans in his charge – and he did not intend to jeopardise this reputation by saying that he could not carry out the instructions. Once he had agreed to implement them, he began to plan how to create a situation in which others, of their own volition, would reach the conclusion that Smith’s instructions had to be rescinded.

First he suggested to Pine that it would be difficult to control a Zulu force once it had crossed the Natal border. The governor put these concerns before the Executive Council at a meeting on 17 January 1851 to which Shepstone was invited to attend. Misgivings were expressed and it was decided that, while arrangements for mobilising the contingent would continue, Smith should be informed of the Natal Executive’s hesitations. That night, walking back after the meeting, Shepstone “twitted” members of the council about their decision. But Shepstone had not calculated on the fears that his comments would evoke. Later that evening Pine got a “perfectly private” note from Colonial Secretary Moodie urging him to elicit from Shepstone his real opinion on Smith’s instruction to send a Zulu force – that it would be “disastrous” for the Colony and “suicidal” for Sir Harry.⁴⁰

Pine demanded that the Diplomatic Agent express his opinions openly.⁴¹ To an evasive reply Shepstone added a new argument – he had noticed that “[S]ymptoms of insubordination have begun to show them themselves” amongst Africans in Natal, and “it will be ere long necessary to adopt the severest measure to maintain the authority of the Government”.⁴² The new magistrates were men with little experience and, under instructions to initiate a census, they had created amongst Africans “an universal feeling of distrust” and a “very dangerous excitement existed among them.” They had begun to slaughter their cattle and buy guns: “Both these were acts bordering on open rebellion”. Nonetheless, Shepstone continued, he had already brought some control by withdrawing the order for a census of cattle. Nonetheless the situation remained unsettled and a “multitude” of reports “impossible for me to enumerate, but all of which are hostile to the government, are in circulation.” As a result the order to raise the force for the Cape frontier should be countermanded. Once colonial Natal was sure it had asserted its authority over its own people then an expedition to assist Smith could be considered.⁴³

This letter was written on 28 January 1851.⁴⁴ Two days later, answering a letter written by the Lieutenant-Governor, Peppercorne, unaware of the line that Shepstone was taking, replied directly to Pine assuring him that he had “no reason whatever to feel any anxiety as to the state and feelings of the Chiefs and Tribes of this Location.” The letter reinforced Pine’s suspicions that Shepstone was not dealing honestly with him and he wrote directly to Peppercorne for more information. Shepstone, on his part suspicious that he had been deliberately excluded from the correspondence, had already reprimanded Peppercorne for communicating with Pine without his knowledge. At the same time he realised from the tone

⁴⁰ TNA: CO179/17. enc 4 in Pine to Grey, 4 July 1851, Moodie to Pine, 17 January 1851 “perfectly private”. Most of these documents can be found in NEC III and in the PAR.GH files but I have chosen to cite the letters in The National Archives which are the most complete.

⁴¹ NEC: Meeting 76 of the Executive Council, 22 January 1851. Because Moodie was involved, the documentary sources on this controversy become hopelessly muddled by matters of procedure and confidentiality. I do not consider this aspect here.

⁴² TNA: CO179/17. enc in Shepstone to Grey (via Pine), 14 March 1851, in Pine to Grey, 4 July 1851, Shepstone to Secretary to the Government, 22 January 1851.

⁴³ TNA: CO179/17. 8811, enc in Shepstone to Grey (via Pine), 14 March 1851, in Pine to Grey, 4 July 1851, Shepstone to Secretary to the Government, 28 January 1851.

⁴⁴ Referred to in TNA: CO179/17, 8811, enc. 14, Shepstone to Pine, 30 Jan 51 and enc. 15, Peppercorne to Pine, 30 January 1851.

of Peppercorne's correspondence that he was dealing with an official who could not just be ignored, and might well be a useful ally.

On 17 February he wrote Peppercorne a letter in which he asked him to "Pray keep me informed of any information you may obtain"⁴⁵ and marked the envelope "Private & Confidential". Well schooled in the contemporary conventions of written correspondence Peppercorne assumed, quite wrongly, that any private and confidential request for official information must have had the Lieutenant-Governor's sanction and the inscription therefore suggested that the general situation was far more critical than he, remote from the developing crisis, was aware. But he was clearly pleased that his superiors in this critical moment had such confidence in his opinion. As a result his report was full, frank and incisive⁴⁶ demonstrating to both men that they had appointed a magistrate of considerable ability. His assessments of the location's chiefs was perspicacious. Phakade was the most powerful, and vain, aggressive and duplicitous to boot. Somahashi was probably of higher rank and his "tribe" was "more strictly a clan" – an interesting observation. Magedama was the most intelligent but placed at a disadvantage by poverty. Peppercorne wrote authoritatively on the strategic points of the location, and of the resentment of the people as they looked up from the valleys' depths to the unoccupied lands from which they had been driven by Boers.

But for different reasons neither Pine nor Shepstone was pleased by this open and informative letter. First of all it exposed the fact that Shepstone had attempted to get information from the magistrate by unacceptably underhand methods. It also made it clear to both of them that instead of an official who could be bent to whatever shape they each desired, they had in fact appointed a man of independent mind and considerable ability. This promised to be troublesome.

At the time however George Ryder Peppercorne failed to realise that he was dealing with dishonest men in conflict with one another, and who in their struggle to assert themselves in the administration of the colony, obeyed the rules only when it suited them. At a distance from the place where decisions were being made, and in a situation whose dynamics he was only beginning to comprehend, Peppercorne was confused by the apparently contradictory responses of his superiors. The rumours, the unfounded stories, the frightened ramblings of the unstable magistrate Thomson next door in the Mzinyathi location,⁴⁷ and above all the confusion and insecurity created by Shepstone's continual manoeuvrings, were disturbing. To add to all this the chiefs who had initially promised to send men to join the Zulu contingent then backed away from their apparent commitment, Phakade stating that his men were objecting to being called up saying

that they were afraid to go into a country where their fathers went a long time ago under Dingaan & were either killed or starved; - that they feared the Amagqikas who had guns, and that they would moreover be starved.⁴⁸

Then Peppercorne had to deal with the consequences of the rumours now spreading amongst settlers in Natal. On 7 February he was asked to attend a meeting of the local Boers. Here he heard the most extraordinary accounts of events: Mpande was about to invade Natal with the support of the location's chiefs who had stores of guns and powder: Shepstone had abandoned the Zulu contingent because of the threat of assassination:

⁴⁵ PAR: Shepstone papers. Box 67, Shepstone to Peppercorne, 17 February 1851, private & confidential.

⁴⁶ PAR: SNA. 1/3/1. Peppercorne to Shepstone, 26 February 1851.

⁴⁷ PAR: SNA. 1/3/1. Peppercorne to Shepstone, 3 April 1851.

⁴⁸ PAR: GH 1557. Peppercorne to Pine, 2 February 1851.

That it was time that the Govt drew a strict line between white and black: that the natives consumed the produce of the country, and did not labour for it: that the tax ought to be doubled in order to force them to take service & work for the Boers - or else, they ought to be driven out of the Settlement: &c.⁴⁹

Peppercorne urged the Boers to accept there was no evidence for their fears: indeed the expression of them only tended to bring just that situation about. Already the chiefs were asking him why the Boers wanted to see him – what were they planning? And this was just a local indication of the general panic that was to sweep through Natal – the settlers persuaded that Africans were about to rise up and destroy them, and Africans believing that they were about to be attacked by the settlers.

For Pine the panic was induced by his senior officials as part of their plot to discredit him: for Shepstone African plans for concerted resistance had been negated by his preventive actions. Forced into reaching some sort of compromise an armed contingent was mobilised by May, with Pine trying to charge it with military enthusiasm, and Shepstone going through the motions of co-operation. It failed of course and had dispersed itself even before the message arrived from Sir Harry Smith countermanding his original instruction. Pine wrote furious letters to London detailing the way in which he had been frustrated by the plotting of a self-interested group of officials, and in the end succeeded in persuading the Secretary of State to reprimand Shepstone severely. But Pine was also criticised and instructed to find some way to co-operate with the Diplomatic Agent. Occupied with their own feuding neither Shepstone or Pine had much time to consider what was actually happening in the Mpofana location. At the end of March 1851 Peppercorne decided to find out for himself.

March 1851 – Phakade Chunu and Somahashi Bomvu

Phakade and Somhashi had still to receive an official visit and needed to be warned that the hut tax was now due. Peppercorne's trip took place between the 25 and the 29 March. He first moved westwards to Phakade's homestead. From there he crossed the Thukela climbed the high ground towards the Mzinyathi then back across the Thukela to Somahashi's. It was a very rough trip and he deeply regretted taking his horse with him for the ground was so rough that he had to drag the animal for most of the way.

The people and their *amakhosi* seem to have been genuinely surprised that the hut tax they had paid in 1849 was not a one-off but an annual payment. How, Phakade asked, could they build up their livestock if it was to be annually depleted in this way? Why wasn't Mpande taxed? Why weren't they allowed to seize the cattle and kill the *abathakathi* who themselves killed people? Peppercorne found Phakade unmoveable on such questions but the discussion came suddenly to an end when the exhausted magistrate unexpectedly fell asleep. It began again before sunrise the next morning. Why, asked Phakade's councillors, should their wives' huts be taxed? It was enough to make them build one hut for their wives and divide it up like white people did ("this was said jocularly"). It was unfair that men who had already parted with cattle as *lobola* should now have further payment in cattle imposed on them, and why shouldn't all men be taxed the same amount? And at this Phakade, who'd been silent as the discussion went round and round, wives, cattle, tax, "assented by an interjection and pointing to me with a finger" – and in this description of Phakade's interruption the debate gains an immediacy and the *inkosi* and his councillors come alive in way that cannot be found in the vast corpus of Shepstone's detailed, remote and devious reports on his meetings with Africans. Peppercorne continued:

⁴⁹ PAR: SNA. 1/3/1. Peppercorne to Shepstone, 14 February 1851.

The whole of this conversation, and that of the preceding evening, was in perfect good humour: there was nothing whatsoever indicating, contemplated resistance, or having a threatening tendency. The main point seemed, repugnance to paying for women - and Pakade's vehemence on the subject of Umpanda taking his cattle, without any retaliation.

Nothing could be more friendly than the chief and his people to me, until we parted, which was soon after.

It was the same at Somahashi's homestead which Peppercorne reached after an even more difficult hike. Here again the *inkosi* and his people objected to the hut tax – as they saw it (correctly) it was paying for women. Nonetheless

Throughout this short excursion I have been treated with uniform respect and kindness, by both chiefs and people, and unless they are all consentaneously guilty of the most unaccountable duplicity, I feel satisfied that there is not any real foundation for the supposed resistance to the payment of the Tax - of their ability to pay I cannot judge, but have very little doubt about it, and I am happy to say that there is every appearance of a plentiful harvest.⁵⁰

On his return he wrote a long and important letter recording his impressions and the generally positive experience of communicating directly with the two *amakhosi*, Phakade and Somahashi. He then went on to discuss some of the most pertinent of problems he faced as a magistrate. Shepstone had written to magistrates about how deal with cases of *thakathi*. While they could obviously not accept that people had in fact been bewitched, *thakathi* should not be treated as an “abstract” question. Africans believed in it implicitly and when they brought cases of *thakathi* before the magistrates they had to make sure to judge them in terms of African understandings. By the end of March, Peppercorne had been at his post for six months, had had to consider numbers of *thakathi* cases, and felt the topic “far more important ... than might at first appear” and, “with great deference”, put down his ideas on what the natives call ‘*umtagati*’ and which our term witchcraft, can hardly be allowed to be a correct exponent. The cases which have arisen and are likely to arise, imperatively demand some decided and distinct plan for their adjustment.

To do this it was first necessary to understand the nature of chiefly power. It was overwhelming, and based on the Zulu conception of property:

Every man of the AmaZulu, I believe, acknowledges, at least nominally, the paramount right of his chief, to all of what he calls his property, nor does he even presume to take a wife without the consent of his chief, and make him an offering. He continues therefore to enjoy his property only by the favor of his chief.

Such powers, Peppercorne knew, existed in feudal states but

with this difference, that the more permanent basis of landed estate, has hardly any appreciable value with the AmaZulu and neighbouring tribes.

As he wrote, with rare and unusual insight, property rights lay not in land but in cattle for [T]hey have but one kind property worth naming - viz: cattle and stock, but which in their transactions, seems to assume more than its natural value, and to acquire in their eyes, the same permanence or durability as Real Estate, by other people :- for, allowing a percentage for casualties and consumption, it seems to be considered, and really is so in effect, that a herd of cattle is reproduced and continued at 4 or 5 years purchase.⁵¹

Chiefly authority depended on the way in which the *inkosi* allowed this tribal stock to be distributed amongst the people who acknowledged his authority. A “rapacious” chief would abuse this authority and accumulate cattle at the expense of his people generally – and become unpopular thereby running the risk of losing control, being overthrown or assassinated. A more sensible chief would take into account his people's needs and desires by allowing livestock to be distributed in a manner which would resolve local conflicts and

⁵⁰ PAR: Colonial Secretary's Office [CSO]. Volume 21, Peppercorne to Shepstone, 31 March 1851.

⁵¹ PAR: CSO. Volume 21, Peppercorne to Shepstone, 31 March 1851. Postscript, 2 April 1851.

redistribute local resources in a manner that created a broader base of supporters. Good government and with it social continuity depended on the way in which a chief organised access to livestock, and applied this to his political objectives.

And an important part of this process was what was called witchcraft – *thakathi* – that formed such an important part of peoples’ lives. In one sense *thakathi* covered all offences and he did not find it possible to dismiss them out of hand as witchcraft. Accusations of *thakathi* were an intrinsic part of chiefly power for they tended to fall upon the unpopular individual, someone against whom charges of unpleasant or scandalous behaviour, meanness, had accumulated until a specific external event, disease, drought for example, exploded in a charge of *thakathi* against the “obnoxious” person. For this reason, a charge of *thakathi* was not wholly bad – it could work in support of a sense of public responsibility in a disciplined, ordered system.

This then was also the problem. *Thakathi* was integral to chiefly power which magistrates were instructed to support. Even to mitigate the fines imposed on *umthakathi* were deeply resented. It was also a source of order and discipline amongst a people for whom

due consideration for each other in their relative positions, and respect for public opinion, is a very prominent good quality - and one which has a strong affinity for order and government, far superior to that of the lowest classes of population of civilized Europe, whose ready brutality, a revolution or popular riot, rapidly develops.

Furthermore

To abrogate the custom, or to require the total proceeds to be handed over, would seem to imply the necessity of indemnifying the chiefs, in some other way - or their total disintegration.

Nonetheless it was a practice open to abuse and had to be checked in some way.

Even as he was writing this Peppercorne was put to the test. A sister of Phakade had just died and he had decided that three homestead heads had caused her death using *thakathi*. It was one thing to argue about this in what Shepstone called “abstract” terms – Peppercorne now had to deal with it in practice, and in the process he was exposed to the underhand manner in which Shepstone worked. As result, by the end of 1851, he found he could no longer accept his superior officer’s methods of native administration.

Shepstone at work

On taking up his post Peppercorne had assumed that the Natal system of native administration followed certain conventions and practices: that reports followed recognised lines of authority; that subordinate officials did not bypass their immediate superiors; and that all subjects in a British colony worked under the law as administered by the colonial officials. The fact that certain administrative practices and the legal justifications for them had to be developed as a result of Natal’s specific and unique circumstances Peppercorne understood – indeed he had done all he could to obtain information and act in accordance with them. He had also held discussions, positive ones, with the chiefs in his division and within months was reporting back to Pietermaritzburg on what he had gained from this.

But this was not the way the system worked. Shepstone felt he needed no independently-derived information about Africans – he already had eighteen years of administrative experience and grown up with the people and their language. The dominant lines of communication between the locations and Pietermaritzburg were oral ones and largely informal, the information carried by messengers between Shepstone and the *amakhosi*. What passed between them was seldom written down, and verbal messages were easy to question or deny at a later stage. The magistrates had their role in administration of course, and were tolerated so long as they acted in accordance with the decisions made by Shepstone. But he

sent messengers into the locations without informing them, and received information without their knowledge. This gave the chiefs the opportunity to play the one authority against the other, and it was a game in which Shepstone participated on both the verbal and the written levels with consummate skill. It had been brought rudely to Pine's attention by the Zulu contingent affair and was determined to stop it. In August 1851 he instructed all magistrates to communicate directly with him and not the Diplomatic Agent.

Deception was the key to Shepstone's way of working. Consider the case of Khalipha, Peppercorne's induna, the man who provided the magistrate with the local information he needed to make his decisions, and the locals with advice on how to succeed with the magistrate. It was a key position, of fundamental importance to understanding Natal's colonial history, and for obvious reasons open to abuse. Khalipha abused his appointment from the start turning messages to his own advantage, extorting and appropriating cattle for himself and becoming deeply involved personally in the political intrigues of the location. But when he attempted to turn the magistrate against the chief Magedama, Peppercorne publicly exposed and then dismissed him.

But it was not just that Khalipha was untrustworthy and self-seeking, it was that he had been sent to Peppercorne by Shepstone. When Peppercorne complained of the induna's behaviour the Diplomatic Agent dismissed the charge airily: once the new magistrate had more experience of the natives he would realise that this was the way they all behaved. Peppercorne rejected this saying "he should be very sorry to participate in the opinion that all the natives were like him".⁵² But he then discovered that even after his dismissal Khalipha was in the Mpofana location working, so he said, for the Diplomatic Agent and was continuing to amass cattle as one of Ngoza followers. And Ngoza was Shepstone's chief induna who by means of this position had made himself, in terms of numbers of followers, the most powerful man in the colony.

In fact the more he discovered about the politics of the location the more Peppercorne understood that the presence of the men who had Shepstone's favour were a disruptive presence. For it was apparent that Ngoza's influence was being felt beyond the Pietermaritzburg area where those under him had initially set up their homesteads, into the Mvoti location, and from there was interfering with the people of the Mpofana location. The case of Sobhuza was particularly annoying. He was the brother to the chief Somhashi but had left him in order to set himself up in the Mvoti location, under Shepstone's Ngoza. Peppercorne supported Somahashi when he complained of this. People of the location could not just leave the *amakhosi* without reference to the authorities – and especially as part of a move to add to the power of the man who was already the most powerful chief in Natal. Together Somahashi and Peppercorne tried to make a case out of this – but the evidence collected at different enquiries by different witnesses was contradictory – the result no doubt, Shepstone stated, of faulty interpretation and Peppercorne not knowing the language. Peppercorne provided the transcripts and translations of statements which he believed showed that the evidence was being fixed.

It had taken some time for Peppercorne to admit even to himself that Shepstone extracted information from him under false pretences, not kept the governor properly informed of the information Peppercorne provided, and interfered in his dealings with Africans under his jurisdiction. In November 1851 Peppercorne brought to Pine's notice the "utter inefficiency

⁵² PAR: GH 1559. Peppercorne to Pine, 29 November 1851.

of the means at my disposal to support my authority as a magistrate, and the neglect of Mr Shepstone of matters which I felt bound to bring to his notice....”⁵³. It was clear from the way that Shepstone had attempted to extract information from him in a private letter that “Government measures have been systematically checked and thwarted for the most selfish and factious motives and the peace and press of this settlement injuriously affected.” Peppercorne gave Pine his personal assurance “you have the full and unreserved command of my services.” Because

I seldom see the public prints my deductions are derived from certain proceedings among the natives – a population equal, if not superior to any in a similar state, but most wretchedly misunderstood – as well as their habits customs or laws.

I sincerely trust that you may be enabled to put down all unprincipled attempts to endanger the public safety actuated by the sordid motives of personal aggrandizement.⁵⁴

Pine didn’t comment but, now at the height of own duel with Shepstone, he was quite willing to let Peppercorne do what he could to keep the pressure on the Diplomatic Agent.

Fabase v. Faliba

And towards the end of 1851 the differences between Peppercorne and Shepstone were put to the test. Chief Magedama reported to the magistrate that his uncle Faliba had lost three of children as the result of an *umthakati* Fabase. The people concerned were Magedama’s people but lived in a separate district at some distance. Peppercorne questioned the chief, there was no suggestion that Magedama had become involved for ulterior motives – as an *inkosi* he was carrying out the duties that Peppercorne had been instructed to support and temper, and so he authorised Magedama to act at his own discretion, harm no individuals, and ameliorate the consequences in so far as he could.⁵⁵ Magedama expelled Fabase as an *umthakathi* and took five of his cattle. Fabase went to James Cleghorn, magistrate of the neighbouring Mvoti location, and with 150 men supported by the magistrate’s police and shouting Cleghorn’s name attacked Faliba, despoiled his homestead and seized 200 head of cattle. Magedama gave an account of what happened to magistrate Peppercorne who reported it to the Lieutenant-Governor who, eager to do all he could to discredit Shepstone, instituted an inquiry.

It was headed by the prosecutor Walter Harding. Cleghorn’s explanation for what he had done was lame and contradictory. Magedama’s evidence was sound. When it came to Peppercorne he defended his course of action by presenting the inquiry with copies of instructions he had received from Shepstone himself on the nature of chiefly authority and the treatment of cases of witchcraft. The inquiry reported just before Xmas in 1851 finding against Cleghorn for authorising the attack with insufficient knowledge of events. The decision with the supporting documents, including Peppercorne’s detailed explanation of his role, were passed to Shepstone for comments.

⁵³ PAR: GH. 1559, Peppercorne to Pine, 27 November 1851.

⁵⁴ PAR: GH. 1559 Peppercorne to Pine, 25 November 1851.

⁵⁵ Many of the documents have been published in NEC 3: Meeting 88, Annexures 3 and 4 with enclosures and sub-enclosures, 307-332. Some of the originals are in PAR:GH. 1558 and 1559 “Natal Natives: the Magadama Affair, 1851-2”. Whoever re-organised the Government House collection in the PAR successfully destroyed the continuity of the documents and there are also inconsistencies in the way the documents were published in NEC and these are reflected in the citations that follow. I have tried to cite the published records. Karen Flint uses this case in *Healing traditions. African Medicines, Cultural Exchange, and Competition in South Africa, 1920-1948* (Ohio, 2008) pp.102-6 and adds to the confusion.

“the sacred rules of justice”

Shepstone did not disagree with the decision against Cleghorn, but he protested vehemently against the course of action that Peppercorne had taken. If Cleghorn was guilty then Peppercorne was equally so. Without an enquiry into the details of the case he had allowed Magedama to attack Fabase. Both magistrates, Shepstone felt,

had violated the first and most sacred rules of justice, that they have, in the exercise of the authority and power placed in their hands, acted so imprudently and recklessly as to furnish strong grounds for apprehension as to the safety of entrusting such power to their disposal.

As far as the case itself was concerned Shepstone didn't disagree with Peppercorne's ideas on witchcraft

although I confess that 18 months experience on his part has enabled him to speak much more positively on the merits of the matter than after 18 years' observation than I feel disposed to do.

But in this case, instead of acting when confronted with the accusations of witchcraft, Peppercorne had yielded “listlessly ... to the will of the chief without investigation.” The letter finished not by answering, but by dismissing much of Peppercorne's evidence with contempt:

I do not feel called upon to notice the frequent personalities which this and the other documents put in by Mr. Peppercorne contain; they are simply impertinences, and as such do not, I think, require any further remark from *me*.⁵⁶

Peppercorn received a copy of Shepstone's letter on the 22 February together with a request that he answer its criticisms of his actions. He posted his reply the next day. It exposed many of Shepstone's stock responses when criticized, opening to view some of the most important aspects of his policies which he hid under the mask of native expert of unparalleled experience. The letter is clear just where Shepstone's are unclear, and uses Shepstone's own instructions on the treatment of custom and tradition to expose his inconsistencies. Thus, when, as Mpfana magistrate, Peppercorne handed the Faliba case back to Magedama, he was acting in accordance with Shepstone's instructions to Peppercorne himself not to destroy but control the power of hereditary chiefs:

I submit therefore that I was not called upon *in the first instance* to supersede the authority of the chief in his own tribe, and therefore not called upon to investigate (as it is termed) or to require proof (which supposes that the case was capable of rational proof); but that nevertheless it rested with me to hear the accused *on appeal* had he thought properly to make it; and that having taken such precaution as lay in my power to prevent inhumanity or cruelty, I beg respectfully to affirm that I did not act in a precipitate and rash manner.

And, he wanted to know, how was guilt to be established in a case of witchcraft accusation?

He is hardly in a position to raise questions and denounce my proceedings when he has declared that 18 years have not enabled him to come to a decision in his own mind what umtagati really is, but which he nevertheless stigmatises as witchcraft.

And as far as violating “the sacred rules of justice”, “[S]uch a phrase is merely declamatory and will not supply a deficiency in matters of fact.”

At its meeting of 7 April 1852 the Executive Council considered the documentation on the case and decided unanimously “that the explanation given by Mr. Peppercorn is entirely satisfactory, and that the charges preferred against him are groundless and have not been proved.”⁵⁷ He had out-argued the expert, exposed the inefficiencies of his office and the inconsistencies in his policies.

⁵⁶ NEC. Shepstone to Acting Secretary to Government, Natal, 7 January 1852, pp.326-8.

⁵⁷ NEC. Meeting 88, 7 April 1852, p.61.

Allodial serfdom

But this exoneration did nothing to help him. Earning Shepstone's enmity did not mean he had gained Pine's favour. Indeed it left Peppercorne even more vulnerable and he knew it. As a result he chose, for the moment at least, not to express his discontent too openly. Thus when Lieutenant-Governor Pine ordered Peppercorne to assist in obtaining labour for the neighbouring Boer farmers he obeyed.⁵⁸ But he did so in the manner of a man experienced in the ways of British mid-nineteenth inquiry: first the on-the-spot investigation then the official report.⁵⁹

He made notes on some thirty farms bordering on the Mpofana location. A significant number of owners were absent on other farms, in town, or over the berg. Most farms had four or five African homesteads, some for labour tenants, others merely living as "allodial serfs". Conditions were severe. Shelter and firewood was inadequate for the misty and cold conditions, food was in short supply, and neither the wages nor the work could be compared with conditions offered in towns. But Peppercorne did make arrangements for the chiefs to assist in finding labourers for the few farmers who seemed to him might be acceptable employers. The result was utter confusion. Messages went astray, workers lost their way, or went to the wrong farms. Some who did arrive were dismissed immediately. One farmer wanted boys not men who wore head rings, another minimum contracts of six months without wages. A farmer's wife struck a recruit with a piece of wood and when he complained he was publicly flogged: some were whipped, and another assaulted by the farmer's son and struck on the head with the butt end of the sjambok.

Peppercorne was appalled and took down their statements. He then sent messages to the *amakhosi*. They were not to send more young men under his instructions to labour on neighbouring farms:

from this time I must abstain from any interference between the Boers and the natives of these tribes – ... so long as this vile spirit prevails, my position is most irksome, and I am prevented giving any assistance in my power which is but little, to the well disposed, and although I doubt exceedingly, that any real want of labour (on average) exists....

As far as he could see the problem would remain until Africans were able to "invest continuous labour" in a product of a more permanent nature than cattle. Tedious work for six months at a time would not do this and why should men work for wages to buy food which they could produce more cheaply themselves? Meanwhile the interference of the magistrate between master and servant only meant he became "personally liable for the acts of both." Competition for wages and the forces of the market had to be allowed time to make their impact and putting chiefs on a payroll would assist the process. Meanwhile Peppercorne was prepared to argue for an amalgamation of different economic ideologies.

I still think that much might be done in a general way through the agency of the really hereditary chiefs, of whom there are not much more than 30, and whose influence in a subordinate character, cannot be substituted by any white official. As soon as their interest, was really identified and dependent on Government – order and regularity would soon prevail in the matter of labour – provided, the white population dealt fairly.

Klip river

But in the neighbouring Klip river district there were no signs of fair dealing. Pine was determined to pursue his policy of bringing the locations and Shepstone's influence on policy to an end. In May he wrote abrupt letters to the magistrates on the immediate collection of the hut tax, demanding full statistical records. At the end of June 1852 Pine himself travelled to

⁵⁸ TNA: CO. 179/36, Peppercorne to Secretary of State, 10 March 1854.

⁵⁹ PAR: GH. 1559, Peppercorne to Gordon, 24 March 1852.

the Klip river district and with Struben began his plans to reduce the size of locations, remove all wanderers and squatters from white farms, and prepare Africans for individual title. Pine met and travelled with Struben and armed parties of Boers, expressed his confidence in “the Dutch farmers generally”, and made his intentions clear. Zikhali, *inkosi* of the Ngwane, was told to order his people off the nine registered farms on which they were squatting and Pine would give him a farm of his own, and piece of paper with it (title) similar to what the white people had with their farms, that you [Pine] also give smaller farms to his brother and to each of his principal men that if they would be industrious and labour as they saw the white man do, they would soon be in a position to buy as much more land as they might require....⁶⁰

The Lieutenant-Governor had no doubts about how to handle the witchcraft case that Zikhali brought to him: he “reasoned with Zikhali upon the absurd nature of this supposed crime; & the man was of course acquitted.” Nodada’s Thembu and Ndabankulu’s Mabaso were the next to be dealt with. Struben ordered the people to move to the area around Msinga.⁶¹ Nodada was reminded that he had been personally involved in the Zulu force which had attacked the trekkers in 1838, and despite Nodada’s rejoinder that he had been acting under orders from a legitimate political authority, he was warned that the Boers had long memories.

Stories of Pine and Struben’s threats and intimidation travelled ahead of them and into Peppercorne’s location where he sat down to write a report of the situation.⁶² Pine and Struben were at the head of a party of Boers, travelling along the borders, demanding the removal of homesteads, threatening violence and terrorising the inhabitants. Peppercorne had had enough. Not only was his authority as magistrate being ignored, but his official superior was driving Africans off land which had been allocated to them, and forcing them to labour or vacate their territory. He also attached his letter of resignation: the conditions of his appointment were “incompatible with my sentiments, and are in my opinion repugnant to the principles of Her Majesty’s Government.”⁶³ The messenger who took the letters to Pietermaritzburg was unable to find an official recipient, and left them at the Post Office.

Meanwhile Struben instructed Phakade and Peppercorne to attend a meeting with the Boers. Peppercorne of course refused to do so in an official capacity, but said he would have done so privately just to find out at firsthand what was going on, but he was unable to travel because the hard conditions in the location had left him lame. On 21 July he wrote to Her Majesty’s most senior representative in the absence of Pine – Colonel Boys. He related again and in more detail what was happening in the Klip river division. He reminded the officials of the proclamation by which Natal had been founded: that there shall be no distinction on the grounds of “colour origin, race or creed....” The only explanation he could find for what was happening was that the Lieutenant-Governor was insane:

from a certain incoherence in conduct of Mr Pine, his desultory movements, apparently unknown to other officers of his Government, and the vicious and injurious tendency of such conduct, there

⁶⁰ PAR: GH. 1559, Collins to Pine, 26 July 1852.

⁶¹ It is in these events that we can find some of the origins of the century and a half of feuding and tragedy for which Msinga is notorious – see Johnny Clegg’s “*Ukubuyisa Isidumbu* – ‘Bringing back the body’: An examination into the ideology of vengeance in the Msinga and Mpofana rural location, 1882-1944” in *Working Papers in Southern African Studies*, (ed. P.Bonner), 2, (Johannesburg, 1981). For a contemporary analysis of the area and the difficulties it confronts see Ben Cousins and Donna Hornby, “*Imithetho yomhlaba yaseMsinga*. The land laws of Msinga and potential impacts of the Communal Land Rights Act”, (CAP and LEAP, 2009).

⁶² PAR: GH. 1559, Peppercorne to Harding, 12 July 1852.

⁶³ TNA: CO. 179/36, 5043, Peppercorne to Harding, 12 July 1852, quoted in Peppercorne to Newcastle, 10 March 1854.

is serious reason to doubt, whether Mr Pine is, or has been for some time in a sufficient state of mental health & capacity, to administer the affairs of this settlement....⁶⁴

Meanwhile news of Peppercorne's protests and resignation seems to have been communicated to Pine.⁶⁵ It was time for some damage control. On 20 July Pine was suddenly taken ill and returned to Pietermaritzburg. On 24 July he put Peppercorne's letters of 20 and 21 July before the Executive Council. The letter of resignation of 12 July was not considered, and the Council was therefore able to suspend Peppercorne from office and although an inquiry was ordered I have found no record of one. Pine was able to deny all Peppercorne's statements and persuade London that the magistrate had not resigned his post.

George Ryder Peppercorne had failed. The general line taken was that, being inexperienced, he had been taken in by African misrepresentations of what had happened. In fact, his defeat shows that, while a subordinate official might be supported as he was in the *Falase v. Falibe* case, it was not wise to say that the governor was crazy.

The 1852-3 Labour Commission

Peppercorne spent the last half of 1852 in Pietermaritzburg. Soon after he arrived he was the subject of a petition written in Dutch, protesting against Peppercorne's behaviour while in office.⁶⁶ Peppercorne protested in the newspapers not only against its content, but the fact that it was clear that whoever wrote it must have had access to his official letters of resignation. It seems as if Pine had leaked the correspondence to Struben – and the Boer signatures he obtained had been supplemented by others raised in Pietermaritzburg's canteens for a tot of brandy.

On 13 September 1852 Pine issued "provisional instructions" for magistrate's to use their "legitimate influence" to raise labour.⁶⁷ Peppercorne argued in the *Witness*⁶⁸ with great legal precision that not only were the terms used in the instruction inherently contradictory, but they ignored the previously promulgated Master & Servants Act. This had been taken over from the Cape, and had to be supported because it "constitutes the line of demarcation between free labor and slavery" and was "founded on the principle, that there is not in the eye of the law any distinction an account of creed, colour, &c., of course, makes no distinct reference to 'native labour'".

This intervention was an angry but analytical critique made in terms of the fundamentals of political economy – freedom under the law by which the master and the servant, the employer and the employee, the one buying and the other selling labour, had to operate. This critical distance was not however sustained when the debate became embroiled in the politics and rivalries of the time, for example in the argument that Pine's labour policy was an attempt in Natal

to exhume the festering carcase of buried slavery, and, under the crafty guise of the 'Labour Question,' to revive that plague-spot of South African, from which rebellions and Kafir wars have

⁶⁴ NEC: Meeting 92, Peppercorne to Boys, 20 July 1852.

⁶⁵ Probably by Peppercorne's own letter to Struben dated 18 July 1852 in PAR: Magistrate's records. LDS. 3/3/1

⁶⁶ *The Natal Independent*, "Protest", 9 September 1852.

⁶⁷ TNA: CO879/1. 1855, Despatches. Reports. &c. relative to the Management of the Natives. No.5, enc.8, "Provisional Instructions for Magistrates Relative to Native Labor",.

⁶⁸ The letter itself is unsigned but the circumstantial evidence, and the supporting editorial in the same suggestions make the conclusion inescapable. See the *Witness*, 1 October 1852.

ever, direct or indirectly, had their origin - as a dog returneth to his vomit, so a fool returneth to his folly.⁶⁹

Pine meanwhile continued his attempts to gain the support of the settlers by insisting on the racial dimension in any new policy. And to facilitate this he set up a Commission

to inquire into the past and present state of the kafir in the district of Natal, and to report upon their future government, and to suggest such arrangements as will tend to secure the peace and welfare of the District for the information of His Honor the Lieutenant Governor.⁷⁰

The 1852-3 Labour Commission met for eighteen sessions over a period of one year. Thirty five witnesses, none of them Africans, wrote or gave evidence which when printed took up some five hundred pages. It has become notorious for its gross expressions of settler prejudice and rapaciousness,⁷¹ but it also contains important evidence by men who thought differently about Natal, and they included George Ryder Peppercorne.

His evidence was submitted in writing and opened with a demographic analysis of the locations that shows a facility and familiarity with statistical analysis and concludes that, generally speaking population estimates were too high and that the figure of 100,000+ for the African population of Natal was an overestimate, based on the calculations that each hut represented between and 3 and 4 people, whereas he was convinced that the figure was under 3 at 2.7. He then presented important histories of the *amakhosi* in the Mpofana location, all of which indicated he felt that the distinction between aboriginal and other Africans was irrelevant to the situation, and incomprehensible to Africans. For them the Thukela river was not perceived as a boundary, and Phakade continually complained to Peppercorne about Mpande not being taxed – he was after all, the Chunu chief asserted, a creation of the whites. While regretting that boundaries had not been clearly defined territorially when the locations had been set up Peppercorne found it necessary to use both territorial and personal definitions for his examination of the extent chiefly authority in Mpofana location.

Peppercorne's views on Africans, gained while living in close proximity, were quite different from those of the settlers. They were in possession, he wrote, of considerable moral qualities. The chiefdoms were well ordered, the people disciplined and generous towards one another.

To designate these people as "irreclaimable savages" is the libel and pretext of those who seek to rob them of their birthright as human beings; and expect to obtain from, in return, the qualities of gratitude, respect, and attachment, - upon compulsory terms.

Indeed, the indications of backwardness about which the settlers complained was not the result of an absence of natural capacity so much as the insecurities created by colonial rule and their treatment by settlers. Mpofana might be 450,000 acres in extent but as farmland most of it was "as worthless as the sands of Arabia".⁷² If Natal's agricultural land consisted of 3% of the total area the figure for the Mpofana location was 1%. Its dry, stony, shallow soil was difficult to cultivate and to use for grazing unless it was possible to move the animals about.

In spite of these disadvantages Peppercorne believed that for the moment the locations had to be retained. The policy was by no means ideal but now that they were established all other possible alternatives were more objectionable. His arguments rested on three different bases:

⁶⁹ *Witness*, 8 October 1852. It is clear from the phrasing and the argument that even if Peppercorne didn't write the different attacks in *Witness* on Pine's policy at the time then he was certainly involved in their drafting.

⁷⁰ This is from the title page of the Commission, called the "Kaffir Commission" at the time, and more recently as the Harding Commission after its first Chairman. I refer to it as the "Labour Commission".

⁷¹ Leonard Thompson, "The Zulu Kingdom and Natal", *The Oxford History of South* (Oxford, 1969) (eds Monica Wilson and Leonard Thompson), pp. 383-5.

⁷² A phrase noticed and used widely in the secondary literature.

the obligations of British rule to its subjects as expressed in the statements made when the colony was established; the limited economic capacity of the colony itself; and the attitudes of the people living in Natal.

The territorial locations had been established but this did not mean that people lived in isolation. Already by the time he took up his post, black and white relations were so intermixed that it was impossible to deal with each under rigidly different systems of law. The law should continue to be differentiated but applied by one Resident Magistrate for the whole district – in other words, the Location Magistrate should be done away with. At the present time tribal feelings were too strong and could only be changed slowly. Ultimately, if left alone and unharassed, a class of small landed proprietors, would develop. Preparations should be made for this, but their time had yet to come.

The answer to what was seen as the labour problem lay in allowing economic forces to develop naturally without external interference. Labour should never be forced legislatively or by deliberately reducing the amount of available land. Any attempt to do so would be “repugnant to law” and no matter how disguised “equally pernicious” and lead to “vagrancy, theft, violence, and increase of the expenses of government, and the total extinction of the tax.”⁷³

In fact he did not believe that there was a labour “problem” at all – this was the view of a settler minority of farmers. Firstly, despite the continued complaints about African unreliability and laziness on “a farm he does almost everything.”

He herds the cattle, milks the cows, churns the butter, loads it on the wagon, the oxen of which he inspan, and leads. He cuts wood, and thatch, he digs sluits, and makes bricks, and reaps the harvest; and, in the house, invariably cooks. There is little that I ever see a farmer do, but ride about the country. In the town, there are some familiar cases in which Kafir labour is employed to a ridiculous extent: for in what quarter of the globe would male adults be found performing the offices of nurses to infants and children, or as laundresses of female apparel. These docile achievements are certainly not very congruous with their own manly habits, nor compatible with the character given them of bloodthirsty savages. The sole stimulus for these peaceful arts, is their anxiety to obtain wages to pay for their father and mother’s kraal, and save their cattle.⁷⁴

Secondly he doubted if there was a labour shortage. Africans would work – for 5s. a month if they were treated with consideration. But even then the value they produced as wage labourers would never match the amount they paid in hut tax. No settler farmer could ever produce agricultural products more cheaply than African farmers did in the locations – and as a result the wages they were prepared to pay for labour were economically irrational and had to fail in their objectives.

In making these points Peppercorne was not just exposing the hollowness of settler racist ideology, its contradictions, or even its exploitative nature. In demanding government intervention to create labour, the Natal landowners were making impossible demands – at least impossible to implement in a colony with pretensions towards British rule which assumed that the economy must progress within the constraints imposed by justice, equity, and the demands of political economy. Natal lacked the necessary requirements for capital accumulation: land with a identifiable monetary value; wage labour protected under the law; and a surplus product:

I think that the land owners of this settlement, are neither in a condition to employ English, nor any very large amount of Kafir labour, for money wages, although they may be desirous of

⁷³ Labour Commission, Part IV, p.5.

⁷⁴ Labour Commission, Part IV, p.5.

employing them without wages. The profitable employment of labor for wages, pres-supposes a surplus product, in some shape, convertible into capital. Until that arises in a new country, every one must work on his account. At present cattle is the only natural staple in the district, and this affords very little opening for the employment of labor, and still less for the investment of adventitious capital. Even the value of land, in its present fluctuating state, can hardly be estimated, whilst a reflux of emigrants is leaving Natal.

Natal did not have this “surplus product ... convertible into capital”. Instead it should continue with the policy of locations and see another role for itself: as a centre for the development of commercial capital that would link the global world of commerce and the still to be assessed, but undoubtedly rich, African interior. He believed

[T]hat this object affords a better prospect for the future, in the settlement of Natal, than in its direct colonization, I have lately become strongly persuaded, seeing that its agricultural features are inferior to those of other British colonies, and far better adapted to its native populations.⁷⁵

As far as Natal’s Africans were concerned, Peppercorne saw their future as a peasant society, based on their knowledge of the environment and their farming skills in managing it productively. In time the economic advantages of capital accumulation would work their changes for progress. Meanwhile the colonial population should concentrate on the areas which looked to the future and develop commercial links between the Durban bay and the interior instead of pursuing reactionary quasi-feudal property relations in pursuit of unrealizable agricultural goals.

Peppercorne ended his evidence by stating that the people of Natal were

neither predatory hordes, nor never need become so, as long as British Government affords them the protection in their natural rights that they are entitled to. Their own internal government would, indeed, be simple and easy, were this principle unflinchingly insisted on and maintained. When preposterous apprehensions, and false accusations, are mixed with an eager and insatiable desire to control and enforce their gratuitous labor, I think that very little further comment is needful on what is called the deficiency of Natal Labor.⁷⁶

And no comment was ever solicited. It was of course a perceptive and informed analysis, based on a liberal, market driven approach, in which the state’s role was to ensure the free operation of the natural laws of economics. It was the approach of a man brought up in a business environment, at capitalism’s global centre, and who had assumed he could apply its legal, economic, and political logic in a British colony. In Natal, however, he had been confronted by contending views: an African determination to defend a pre-capitalist mode of production; Shepstone’s African paternalism; and then the ruthless racism of settler colonialism. The first had to be changed, but by cautiously assisting the natural laws of political economy. The other two he opposed in practice and in theory, but as a consequence he also had to reject the basic tenet of colonialism – discrimination based on race. He failed in this of course, but in the process mounted his liberal challenge to Shepstone’s dishonest methods, and the settlers’ violent ones, with an intelligence and the courage that was remarkable. But it also meant that he was pushed aside. The Commission attached “no importance” to his evidence, and with this George Ryder Peppercorne’s presence in Natal came to an end.

The Magistrates: Coda

None of the men appointed by Pine in 1850 prospered. Cleghorn was dismissed, a petition from local settlers for his reinstatement failed, and he disappears from the historical record.⁷⁷

⁷⁵ Labour Commission. Part IV, p.11.

⁷⁶ Labour Commission. Part IV, p.12.

The psychotic tendencies of George Ringer Thomson, Pine's scholar and gentleman whose intellect and expertise he had repeatedly placed before the public and the Colonial Office, had become increasingly apparent. Early in 1852 "either under the influence of liquor, or labouring under an aberration of intellect" he threw his weight about in Shepstone's office, and accused a local lawyer who witnessed this of "infant buggery".⁷⁸ This public fracas was mixed up with other assaults and a commission by which Thomson defrauded the military of hundreds of pounds. He then disappeared and was discovered north of the Swazi territory worm-eaten and too ill to move. Shipped to Natal he was brought to trial, found to be insane, and sent back to England. Struben, Pine's gallant captain, survived one investigation into thefts from his office, but in 1856, as a Commission approached Ladysmith to investigate his accounts, he just managed to escape over the border and take refuge in the Transvaal.

George Ryder Peppercorne left Natal without having received a response to his letter of resignation and found his way to Australia where his brother was making his way as a surveyor. There is a letter from George Ryder in the *Illustrated Sydney News* of March 1854 referring to his 1838 patent on the improvement of machinery and pointing out that "Horse Railways" would be suitable for railway development in Australia. He then developed the idea in an article on "The Horse Motor".⁷⁹ I have found no evidence that he had any success in this – indeed what does exist points only to hard times.⁸⁰ He wrote long letters to the Secretary of State in 1853 and 1854 on the circumstances under which he had felt it necessary to resign in Natal, and asked for help in being re-appointed to an official position. The first was not delivered, the second was merely acknowledged. As a result George Ryder Peppercorne remained "reduced", as he put it, "to the necessity of manual labour for a subsistence."⁸¹

⁷⁷ Spencer, Shelagh O'Byrne, *British Settlers in Natal 1824-1857 □: A Biographical Register* (Pietermaritzburg, Natal Press, 1987), IV.

⁷⁸ The correspondence and minutes on the case is in TNA: CO179/21. 6284, Pine to Grey, 15 April 1852.

⁷⁹ Peppercorne to Editor 11 March 1854 <http://trove.nla.gov.au/ndp/del/article/63614114>, accessed 30 November 2011, and *The Argus* (Melbourne), 15 May 1854.

⁸⁰ Thanks to Tony Voss for finding a letter a letter written on 1 December 1854 to the Sydney City Commissioners, No. 1091 on the possibility of a vacancy. The marginal comment reads "Reply [that the positions] have been filled up."

⁸¹ TNA: CO. 179/36. 5043, Peppercorne to Newcastle, 10 March 1854.