

THE CAPE GOVERNMENT'S RULE OF BASUTOLAND

1871 - 1883

A THESIS PRESENTED FOR
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by

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Map published by Saul Solomon & Co., 1880.
(U.S. Public Library).

"The way of life of a nation.... cannot be transformed by an act of will or an edict; attempts to do so....invariably lead to confusion. Planned change can envisage only a narrow sector of life, while the wider repercussions can seldom be forecast. Hence the admitted superiority of 'organic change': of empiric practice advancing by slow tentative steps."

L.B.Namier. "Avenues of History".

INTRODUCTION

In studying the Cape Government's rule in Basutoland certain complementary themes arise, which though they are all germane to the problem, have had to be handled very briefly. The two main protagonists were the Cape Government and the Basuto. At the time of the annexation the Cape was on the eve of Responsible Government and all the burdens this entailed; the Basuto, after several years of close, though uneasy, contact with the Free State burghers on their Western boundary, were proving themselves adept at learning the external features of a different civilisation while still clinging tenaciously to traditional ideas and forms. Watching over these two major participants was the British Colonial Office, balancing, often precariously, between two opposite policies - a desire to be rid of the expense of colonial administration and a fear of abandoning the British colonies, especially in South Africa, to a state of confusion.

This study has several objects. One was to decide why the Cape annexed Basutoland. Another to establish who made policy and how. Whether it was the Cape Government with its newly established Native Affairs Department or the man on the spot - magistrate, and to a lesser degree missionary and even trader; and how far the policy was mitigated by a series of Colonial Secretaries anxiously trying to give full rein to the real meaning of Responsible Government, while allaying the fears of Aborigines Society officials and other pressure groups who hesitated to leave native tribes emerging from their cocooned tribal conditions, to the reputedly untender mercies of land-greedy Colonists.

A further object was to decide exactly what that policy was. Basutoland was the workshop in which Cape Native policy for several following decades was developed. Based on Grey's civilising policy, as an interim measure, to tide a tribal people over the period of

adjustment to a more advanced civilisation, it was a successful policy in the Transkei. This study concerns itself with analysing the reasons for the failure of a similar policy in Basutoland. The Cape's annexation, as Brookes says, is "of intense interest, as showing clearly the good and bad points of Cape administration of that date."¹

The period 1871 - 1883 falls neatly into two sections, divided by the month October 1879, when Sprigg announced the imminent disarmament of the Basuto at the annual Pitso. The first period was, on the whole, one of slow, steady material development; the second of chaos and the inability to restore law and order. It is the second period that is mainly covered by this study. "The condition of Basutoland" as a contemporary wrote² "is seen to be as complicated a question, upon a small scale, as the politics of a whole empire." Certainly it epitomised many of the vicissitudes of the Cape's history; and it is in an attempt to understand what went wrong that this research has been undertaken.

¹ "History of Native Policy in South Africa". p.99.

² Cape Argus, 31 Oct. 1882.

CHAPTER I

The history of modern Basutoland¹ starts in about 1818, when Moshoeshoe, chief of a minor clan, the Bakoena², living in what is now Northern Basutoland, united the remnants of tribes scattered during the lifagane³ into a fighting force to repel the Zulu invaders. By 1831 this unifying process appears to have been completed and the Basuto nation comprised Hlubi, Thembu, Bapedi, Batlapin and Baralong clans. Moshoeshoe established himself at Thaba Bosiu, "his mother", for "had it not been for her", he once told Eugene Casalis⁴ "you would have found this country entirely without inhabitants". It was Casalis, together with the Revs. Arbousset and Gossellin of the Paris Evangelical Missionary Society, who arrived in June 1833, in response to Moshoeshoe's appeal for missionaries to work among his people⁵ and founded a station at Morija. Within 20 years several Paris mission stations stretched out in a line almost parallel with the Caledon River.

The territory claimed by Moshoeshoe in 1833 stretched from beyond the Vaal in the North to the Drakensberg in the East and the rich Caledon valley in the West. On this contentious western boundary in June 1837 the Basuto first made contact with the emigrant Boers, then with the English when Sir Harry Smith annexed the Orange River territory in 1848. After 1854 the government of the newly created Orange Free State extended its influence into the Caledon valley, setting the stage for an inconclusive clash with the Basuto in 1858.

Sir Philip Wodehouse arrived as British High Commissioner in South Africa in January 1862 when confusion between Moshoeshoe and

¹ Casalis "The Basutos", is a valuable source of material on the early history of Basutoland.

² People of the Crocodile, hence the national emblem.

³ Chaka's great wars of Conquest.

⁴ Casalis op.cit., p.78.

⁵ Ashton "The Basuto". Moshoeshoe had heard of the missionaries' work in Bechuanaland.

the Orange Free State over ownership of land in the Smithfield area was at its worst. The main cause of dissension was the difference between the European and Bantu ideas of land tenure⁶; whereas the latter's land tenure system was based on the inalienability of land, the former respected the "finality of a cession".⁷

With Brand's becoming president in February 1864 the Free State adopted a firmer, more definite line towards the Basuto, laying the way open for a conference between Wodehouse, Brand and Moshoeshoe at Jammerberg Drift in October of the same year. Having heard argument from both sides Wodehouse set out to examine the disputed area, and marked out a boundary line which confirmed the line laid down by Warden in 1849 and suggests Wodehouse was a just, realistic arbitrator concerned solely with establishing a permanent peace.⁸

Basuto raids into Free State territory continued and war broke out in June 1865. Wodehouse, fearing a general war⁹ began seriously to consider British annexation of Basutoland as a solution to the problems while simultaneously Theophilus Shepstone, Secretary for Native Affairs in Natal, contemplated the annexation of Basutoland to Natal as part of a large native complex under his guidance.

In January 1866 Wodehouse asked the Colonial Secretary Cardwell, 'for permission to annex Basutoland and put it under the direct control of the High Commissioner rather than the Cape Parliament at the same time informing Brand of these first tentative steps towards annexation. The Orange Free State, however, was determined first to defeat the Basuto, and following the destruction of Basuto cornlands west of the Caledon, Molapo signed the Treaty of Imparani

⁶ Van der Poel. p.20. The remainder of this chapter has been largely based on Dr van der Poel's study.

⁷ Op.cit. p.20.

⁸ Op.cit. p.25 ff.

⁹ Particularly as Basutoland was completely disorganised. Moshoeshoe was now 74 and too old to control his restless sons.

becoming a vassal of the Orange Free State. Subsequently the Treaty of Thaba Bosiu was signed in April 1866, ceding about half the available land of the Basuto to the Orange Free State.¹⁰

Wodehouse felt this treaty left too little land to the Basuto and would cause further complications, but Cardwell was adamant in his refusal to annex except for some "overruling necessity." It was Cardwell who put his finger on the very difficulties which were to face the Cape in 1883 and which the Cape Parliament failed to comprehend in 1871.¹¹

Meanwhile in May the Orange Free State prepared to send a commandant with magisterial powers into the ceded area but the Basuto chiefs now maintained that the treaty had merely been a "peace for the corn."¹² Consequently in July war between the Boers and the Basuto was renewed, with the latter filling the area they had never really evacuated and the Boers trying to reconquer it. In December 1867, when the Basuto were beginning to feel the strain, Buckingham, the new Colonial Secretary, gave Wodehouse permission to annex Basutoland to Natal and to meet with Moshoeshoe for recognition of himself and his tribe as British subjects.¹³

Brand, however, refused to suspend hostilities until the Basuto had been punished for failing to uphold the conditions of the Treaty of Thaba Bosiu. In the face of his intransigence Wodehouse prohibited the issue of ammunition to the Orange Free State and on 12th March 1868 proclaimed the annexation of the Basuto and their country to the Crown.¹⁴ Wodehouse was not deliberately trying to deprive the Orange Free State of what it had gained by conquest; he felt, rather,

¹⁰ Cambridge History of the British Empire. Vol.8, p.420.

¹¹ De Kiewiet "British Colonial Policy and the South African Republics" P.190. Actual sovereignty, he reminded Wodehouse (9th March 1868 - A27-83) implied "correlative obligations...such as it is difficult, if not dishonourable, to compromise for the sake of some political convenience arising at the time".

¹² Van der Poel, p.52.

¹³ Buckingham to Wodehouse, 9 Dec. 1867 (G30-68).

¹⁴ Wodehouse letter to "Times" (Reprinted Cape Argus, Jan.21, 1881).

that the Boers had not really defeated the Basuto and he feared the effect of this uncertainty on stability and economic progress in the whole of Southern Africa.¹⁵

While Wodehouse's action found supporters in both the Cape and the Orange Free State the Volksraad, regarding the annexation as a breach of the Bloemfontein Convention, refused to settle the boundaries with the governor. Nevertheless in 1868 Wodehouse met the Basuto chiefs at Korekoro and formally accepted them as British subjects; Moshoeshee's request on 21st April, that the Basuto come under the Cape rather than Natal, and the High Commissioner in preference to both, was obviously inspired by Wodehouse himself.

To keep order within the Thaba Bosiu line 50 of the Cape's Frontier Armed and Mounted Police under Cdt J.H. Bowker, were stationed at Korekoro. While Wodehouse fretted at Buckingham's delay in deciding who was to administer Basutoland, skirmishing continued in the ceded area. Finally on December 15, 1868, Buckingham's confidential despatch arrived giving the High Commissioner entire control of the Basuto settlement.¹⁶

The Volksraad, presented with a fait accompli, finally agreed to send a deputation to Aliwal North to settle the Basuto question with the High Commissioner.

The conference took place between 4th and 12th February 1869, the parties being led by Hamelberg and Brand on the one hand and Wodehouse on the other. Whether Aliwal North upheld the Bloemfontein Convention or whether it was an affirmation of Britain's right to pursue her interests across the Cape frontier is a moot point;¹⁷ it unequivocally settled the future fate of the Basuto. Article 1 fixed the boundary line between Basutoland and the Orange Free State as it

¹⁵ Pace Froude (reported in Cape Argus Mar.23, 1876) who, in his report on his mission to South Africa claimed Wodehouse annexed Basutoland in the "face" of the Bloemfontein Convention and "deprived the Free State of half of what it had gained."

¹⁶ Van der Poel. In practice this meant the elimination of the Orange Free State's conditions and of Natal as the possible annexing power.

¹⁷ See van der Poel, p.74; and de Kiewiet "British Colonial Policy and the South African Republics", p.223, for opposing opinions.

exists to this day, confirming the temporary line proposed by Wodehouse on 14 April 1868,¹⁸ "from the junction of the Cornetspruit with the Orange River, along the centre of the former to the point nearest to Olifantsbeen; from that point to Olifantsbeen; from Olifantsbeen to the Southern point of Langberg; along the top of Langberg to its North-western extremity; from thence to the eastern point of Jammerberg; along the top of Jammerberg to its north-western extremity; from thence by a prolongation of the same to the Caledon River; along the centre of the Caledon River to where the Putisani falls into it; along the centre of the Putisani to its source in the Drakensberg; from thence along the Drakensberg."

To the south of this line all the fertile territory was kept for the Basuto; to the north, however, arable land was conceded "but the sacrifice had become inevitable through the operations of the war and the treaties which had been made by the Basuto chiefs with the Free State."¹⁹

Articles 3 and 4 settled the nationality of the Basuto living on either side of the boundary; those on the East were British and those on the Free State side were Free State subjects. The few living on the western side who fell into neither camp were to remain until 31 July 1869 to reap their crops and were then to quit unless the Republican government permitted them to stay. Under Article 6 Molapo, if he requested in writing was to become a British subject, whereupon the land between the Putiatsana, Caledon and Drakensberg would not be part of the Orange Free State and the boundary would be taken to run along the centre of the Caledon to its source in the Drakensberg.²⁰ While Article 9 limited the movement of the Basuto between their country and the Orange Free State, Article 8 permitted

¹⁸ (C5-69)

¹⁹ Wodehouse to Granville (14 April 1869. C5-69)

²⁰ Molapo opted to become a British subject and the boundary was redrawn to allow for this.

"free intercourse, personal and commercial" between the white inhabitants of the two countries, subject to existing laws and regulations.

Thus, though Aliwal North made a considerable reduction in the size of the arable Basuto land (which was about 150 miles long, ranging from 1 to 20 miles in width) it saved the tribe as a political entity and fixed a definite enforceable boundary on the Free State's western border.

Wodehouse and Bowker immediately proceeded to implement plans for governing Basutoland.²¹ Soon the sale of liquor in Basutoland was prohibited, trading regulations were issued, people were resettled and beacons erected on the new boundary, while the land north of the Caledon was prepared for evacuation before the end of July. On the basis of this evacuation Brand had persuaded the Volksraad to accept the treaty on May 3rd and he arrived in Cape Town in July to receive the British government's ratification. It was not until 10th March 1870 that the treaty of Aliwal North was finally ratified in Cape Town. Two of the leading protagonists withdrew from the stage. Moshoeshe died the day after the ratification.²² Wodehouse left the Cape two months later after framing preliminary regulations for the government of Basutoland on 13th May 1870.^{22a} Only Bowker and his thirty-six Frontier Police²³ remained in Maseru the new administrative capital "with no resources but the promise of two magistrates and authority to collect an annual hut tax of ten shillings"²⁴ to cover administrative expenses.

²¹ Van der Poel.

²² Wodehouse to Granville 23 April 1869 (C5-69) mentions that his sons admitted that at the time of Aliwal North he was deteriorating so fast mentally and physically that he could not attend the Pitso at which the treaty was explained.

^{22a} These "certain regulations" (C4-83.Part II.Page 11) are referred to in subsequent proclamations. Their exact contents are in the Basutoland Records (Cape Archives) at time of writing (1966) withdrawn from use by the public.

²³ Tylden "The Rise of the Basuto".

²⁴ Van der Poel, p.81. The idea of tax payment was foreign to the Basuto (Casalis).

This promise was partially fulfilled by the appointment of John Austen as magistrate in the Cornet Spruit area. When Bowker retired later in 1870 he was succeeded as agent by W.H. Surmon,²⁵ and together he and Austen began collecting the hut tax and trying to wean the natives from the chiefs' jurisdiction. While Letsie, the new Paramount Chief, ostensibly co-operated, Masupha, Moshoeshoe's third son, indicated the future part he was to play as focus of opposition to the government, by hampering the tax collecting operation, which nevertheless yielded enough,²⁶ thanks to Basuto earnings on Free State farms and the Diamond Fields, to cover administrative expenses.

Late in December 1870, Sir Henry Barkly arrived as Cape Governor and High Commissioner in South Africa. Early in the following year he visited Basutoland, making sketchy regulations for the internal government of the country. Four magistrates were appointed and "the real work of governing the Basuto commenced."²⁷ The Imperial Government, hoping to be relieved of Basutoland, favoured annexation by Natal. Barkly himself preferred to keep the continuity of the High Commissioner's rule by attaching Basutoland to the Cape.²⁸ At no stage were the Basuto consulted about their feelings, though the plans for governing Basutoland had progressed far beyond the simple administrative forms envisaged in the original annexation.

The Annexation Bill was introduced in a singularly uninformed Council on 8th May 1871, a bad third to the weightier issues of Responsible government and the Diamond Fields Annexation. On July 3rd the Colonial Secretary, Richard Southey, who had determined on the

²⁵ Cape Argus May 13, 1879. He had been a Frontier Armed and Mounted Police officer since that corp's inception.

²⁶ £3,700. Lagden, Vol.2, p.470.

²⁷ Griffith (827-74).

²⁸ A1 - 71. Speech of His Excellency the Governor at the opening of the 3rd session of the 4th Parliament.

annexation, tried to hustle the second reading through the Council on the grounds that "unless the Cape takes Basutoland, Natal will accept it very gladly."²⁹ As a result of de Korte's amendment that the Cape Parliament was not legally authorized to annex Basutoland, the Bill was referred to a Select Committee comprising about half the Council,³⁰ who briefly reported their findings on July 24th.³¹ On the evidence primarily of the Attorney-General the Committee accepted the Cape's legal right to annex; it was far more influenced by the prospect of gain to the Colony. "The opinion is given", the report ran, "that Basutoland offers a wide field to profitable commercial enterprise, which it will be sound policy to secure to the Colony; and that it having already been declared British territory it would be undesirable for the Colony, geographically connected as it is with that country, not to secure legislative control over the people who inhabit it. At the same time, the Committee are of opinion that the whole subject is surrounded by collateral questions of such importance as to demand the most careful consideration of the Legislature.....it does not appear that the annexation of the Basuto territory is likely to entail any additional burien at present on the Colony. The evidence of the Honorable Colonial Secretary it will be seen goes to show that the direct taxes paid by the Basuto people are sufficient to defray the expenses of the simple form of government contemplated by the Bill now before the Council; while it is evident that every addition made to the commerce of the Colony adds in the same ratio, by an increase of the customs duties, to the general revenue." Thus "at the fag end of the session and in a

²⁹ Standard and Mail, July 6, 1871.

³⁰ Godlonton, Chase, Wood, Fleming, de Korte, Hoole, de Roubaix, de Smidt and White.

³¹ Standard and Mail, July 29, 1871.

thin house," ³² with the few remaining members anxious to get home, ³³ the Bill passed through the Legislative Council on August 2nd ³⁴ and the Assembly on August 10th (one day before Parliament was prorogued) as Act 12 of 1871, "For the Annexation to the Colony of the Cape of Good Hope of the Territory inhabited by the Tribe of people called Basutos". What the Legislature failed to realise was that, by the annexation, it had taken over, in the opinion of the British Government, not only the internal government of Basutoland but also the Crown's obligations to the Orange Free State under the Aliwal North Convention. On August 14th, a proclamation of the governor brought this into operation though it was not confirmed by an Order-in-Council until December 18th. ³⁵ Basutoland was annexed to the Cape subject to the existing regulations, the annexation being on the premise that it would not be a charge on the Colony governing it (and conversely, that the revenue raised in Basutoland would not be appropriated for Colonial use). Because the Basuto were not civilised enough to be subject to colonial laws, under Section 2 of the Annexation Act, no act of the Cape parliament was to extend to the territory unless "it shall be extended thereto in express words, either contained therein or in some other Act of Parliament, or unless operation thereof shall be extended to such territory by the Governor for the time being by Proclamation or notice in the Government Gazette."

Until otherwise provided by Act of Parliament the governor had the power of "making, repealing, amending, altering" ³⁶ the laws for the government of the territory, and could from time to time proclaim civil and communal matters occurring in Basutoland over which the Cape courts were to have jurisdiction.

³² Uppington in House of Assembly (Cape Argus, 13 April 1882).

³³ Standard and Mail, August 1, 1871.

³⁴ Standard and Mail, August 5, 1871.

³⁵ Blue Book for the Cape of Good Hope 1871.

³⁶ Act 12 of 1871 (G4-83).

CHAPTER II

The annexation brought together two disparate entities - a colony on the verge of Responsible Government and a tribe whose political and social structure had remained unchanged for several decades.

Casalis maintained ¹ that the Basuto had possessed the territory where he found them for some five generations. Comprising at least six tribes, their political unity was expressed in their paramount chieftainship established by Moshoeshoe, whose clan constituted the reigning house. Casalis noted that they showed a superstitious respect for the paramount chief, which he interpreted as being almost analogous to the old European idea of the Divine Right of Kings.² Thus in his person were vested the authority of the judicial and political systems, and he was the guardian of the land and its natural resources.^{2a} Strangely parallel with this supreme paramountcy of the chief and his extensive personal influence went the appointment of sub-chiefs, a political phenomenon developed, according to Ashton,³ far more extensively by the Basuto than any other Bantu tribe. While the oldest son of the first house inherited the paramount chieftainship by right of primogeniture, the other sons, who were also chiefs, became restless and ambitious and possibly to counteract this, the custom arose of sending some of the older ones away to govern a small area of their own. Moshoeshoe utilised the system to administer his domain, dividing the country into five parts, one ruled by himself and the others by his principal sons, Letsie,

¹ Casalis, op.cit., p.156.

² He was the religious leader too. "Nothing could be done without him. Even the crops could not be reaped until he had tasted the first fruits. It was by his order that the rain-maker practised his mystic art." (D.F.Ellenberger "History of the Basuto. Ancient and Modern").

^{2a} Thus after the annexation of the country by the British the chiefs forfeited their sovereignty over the land which included control over the cutting of reeds, wood etc. (Brownlee's Memo. 3rd July, 1871. Native Affairs Department 272).

³ P.199. Ellenberger (op.cit.p.272) calls the Basuto law of succession a limited form of primogeniture, which was preferable to the absolute despotism of the Zulus.

Molapo, Masupha and Majara. To assist him each chief had two councillors, superior to the other tribal leaders - his "eyes, ears and arms".⁴

At the root of all social relationships lay the idea of property. This tended to make all delinquencies a form of theft; thus murder was a violation of a father's right as an individual because it deprived him of his son's services, rather than an offence against communal ethical standards. Morality, in fact, was so dependent on the social order that any political disorganisation as Casalis perceptibly noted, was liable to be followed by a state of degeneracy and anarchy. "The sudden and premature introduction of new laws and customs, and the imposition of a strange authority are equally fatal to their moral character."⁵

The land tenure system was based on the idea of "tribal commonage, in the appropriation of which the whole tribe had a voice in council, and each had a right to individual holdings which were heritable".⁶ Thus land was never permanently alienated but was occupied by consent of the local chief, who apportioned certain parts to the headmen; they in turn apportioned it further to the people.

While showing an aptitude for weaving grasses and fashioning simple wooden articles, the Basuto were essentially an agricultural and pastoral people. "Field labours"⁷, when sorghum, maize and, by the time of European settlement, wheat, were sown, began in September, but December to February was the time of anxiety, when they eagerly watched the Eastern skies for rain.⁸ Cattle herding was a "noble occupation", all cattle captured in war being the chief's property.

⁴ Casalis, p.222.

⁵ Casalis, p.303.

⁶ J.M.Orpen "Some Principles of Native Government Illustrated". P.2. Pasturage was reserved near the village by the headmen, and was open to general grazing when the chief's cattle were sent to graze.

⁷ Casalis, p.164.

⁸ Dutton

From the time when Morosi, the Baphuti chief, had presented Moshoeshoe with a horse stolen from a colonial farmer, a large variety of horses were introduced into the country, through theft or legitimate commerce, from which evolved the famous Basuto pony.

This, briefly, was the tribal organisation of the Basuto when Casalis arrived in 1833 and so it substantially remained until the Act of Annexation imposed on it a different political order. The appointment of the four resident magistrates at Thaba Bosiu, Berea, Leribe and Cornet Spruit was proclaimed on 23rd August,⁹ the proclamation giving wide powers of jurisdiction to the individual magistrates except for offences punishable by death under Cape law which were to be heard by an appeal court comprising three magistrates sitting together. Superior to the resident magistrates was a Chief Magistrate who was simultaneously the Governor's Agent.

The Governor's Agent, as chief diplomatic and political officer formed the link between the government and the tribe by directing "the policy of the six magistrates who [reported] to him and [communicated] through him with the government".¹⁰ In addition his judicial powers made him the territory's chief appeal court, and the judge in Divorce and Insolvency cases.

The Governor's Agent was not allowed to frame provisional by-laws for the territory without such by-laws being formally included in the Basutoland Code of Regulations.¹¹ There seems to have been some doubt as to the exact nature of the Chief Magistrate's position. Griffith, the first incumbent, claimed, as Governor's Agent, to be entitled to receive instructions only from the Governor (that is, the Executive)

⁹ Proclamation 51 of 1871 (G4-83).

¹⁰ Rolland's Report (28 Dec. 1877. Native Affairs Department 274).

¹¹ See note 10, Chapter III. It would have been sensible to allow him to decide customary matters like grass burning, reed-cutting, etc., which would have been out of place in a set of formal regulations.

whom he represented; thus he distinguished his post from those of Blyth, Elliot and Brownlee who were regarded simply as judicial officers in their respective districts.¹² Correspondence between the Native Affairs Department and the Governor's Agent suggests that no consistent measure of control was maintained over the latter. Sometimes matters like leave for personnel, expenditure of larger or smaller amounts¹³ on public works etc. were firmly controlled from Cape Town; while at other times, more critical decisions like re-siting a magistracy, were left to the Governor's Agent's discretion.

The magistrate's duties were judicial and fiscal. Theoretically he was not involved in political affairs, which fell under the control of the Governor's Agent.¹⁴ In practice however, as the Doda case and the whole Disarmament issue indicate,¹⁵ political matters and judicial duties frequently overlapped. Whereas the magistrates in areas such as the Ciskei were faced with straightforward interpretation of Colonial law, the Basutoland magistrate was often bound to administer Basuto law on matters such as marriage settlement, which were frequently repugnant to him as a civilised individual. Most delicate of his tasks, however, was that of maintaining the balance between his duties and the chiefs' remaining rights. Thus the Quthing magistrate was forced to drop a project to run a ferry service across the Orange River during flood periods because the paramount's son objected.¹⁶

In November the Governor, in terms of Clause 2 of the Annexation Act issued amended regulations¹⁷ for the administration of the

¹² Memo from J. Rose-Innes (23 May 1881. Native Affairs Department 279)

¹³ E.G. Governor's Agent to Secretary for Native Affairs (Feb. 23, 1877. Native Affairs Department 274) asking for authorisation to spend £6.3.6d. on an office stove; compare Brownlee to Governor's Agent (July 29, 1875. Native Affairs Department 273) advising him to do what he thought best about moving the Leribe magistracy.

¹⁴ Griffith to Secretary for Native Affairs (2 Feb. 1875. Native Affairs Department 273).

¹⁵ See below.

¹⁶ Report of Marshall Clarke (Native Affairs Department 280).

¹⁷ Proclamation 74 of 1871 (6 Nov. 1871. A13-72).

territory. There were some interesting deviations from Wodehouse's code which had made specific allowance for the semi-barbaric conditions of the mass of the people. Under Barkly's proclamation, acts which by Cape law were offences were now to be punishable, subject to the special circumstances of the country. Any killing was now murder, punishable by death after the magistrates trying the case had given a unanimous decision. Witchcraft was made a punishable offence; forced marriages were forbidden; forcible circumcision was to be regarded as an assault; penalties were laid down for rape, arson and infanticide. Widows could remarry, the issue of the previous marriage being transferred to the guardianship of a relative appointed by a magistrate. Sub-division of land for the tribe was controlled by the Governor through the Governor's Agent, while allotment for individual tenure was still to be made by a headman but subject now to the Governor's Agent's approval,¹⁸ instead of that of the paramount.

These were the main divergences from Wodehouse's code. For the rest, this Proclamation 74 covered most aspects where the powers of the governing authority touched the life of the individual. While the chiefs still held court on tribal matters, appeal was allowed to the magistrates; and any decision from a Resident Magistrate was liable to review by the Chief Magistrate who was to receive a return of all sentences passed in the different districts. All marriages were made subject to civil registration at a fee of 2/6, Christian marriages being as binding as Basuto customary union. Annual hut tax was due on June 1st, fixed at 10/- per hut payable in money or kind to the Resident Magistrate or his agent. Trading regulations were taken out of the chief's hands.¹⁹ Annual licences for retail or

¹⁸ Thus the Queen held rights over grass, reeds etc., formerly held by the Paramount, which she in turn invested in the lesser chiefs. (Griffith at first Pitso, Oct. 1874. G21-75).

¹⁹ It remained customary, however, for the chief to be consulted before any trader was settled in his district. (Assistant Resident Magistrate, Leribe to Acting Governor's Agent, 10 March, 1882. G47-82). But if a chief attempted to exert control over a trader the latter could get redress from the magistrate. (Governor's Agent to Secretary for Native Affairs, 9 Dec. 1878, Native Affairs Department 275).

wholesale trade were now to be issued by the magistrates and the Governor's Agent could refuse to grant or renew such licences. The sale of corn and arms was strictly controlled, the sale of liquor forbidden. Though the trader formed an integral part of the Basuto economy, he was not initially granted either freehold or leasehold title to the land on which his store stood - an extension of the theory of the inalienability of land in Basutoland, under which Wodehouse had originally made his annexation.

At the end of March 1877, under a proclamation of Barkly's ²⁰ the previous regulations for Basutoland were consolidated into an amended code of law for the territory, which was to remain the statute law in force until 1883. The main divergences from Proclamation 74 were in the marriage and trading regulations. Divorce was obtainable on the grounds laid down by Cape law; while a man married in Christian or civil union who took another wife, was subject to the penalties provided by colonial law.

Thus the code under which Basutoland was ruled after the annexation, purported to transfer to the government those powers - political and judicial - which had formerly been the chief's prerogative. This altered the chief's status vis à vis the tribe. Instead of holding his position by virtue of tribal law he was now a paid civil servant in the European administration.

Where there was a divergence between European and native practice over the definition and punishment of crime, European standards tended to prevail. Only those Basuto customs which were not morally distasteful to the European administration were given the sanction of law.

²⁰ No.44 of 1877. See appendix VI. It took delayed cognisance of the report (64-83. Part II. pp.22-24) of the 1873 Commission on Native Laws and Customs of the Basutos (see below).

CHAPTER III

The Basutoland Code of Regulations, with the amendments made to it as need demanded, was intended gradually to draw Basutoland into the comity of "civilised" nations. The success of this intention can be gauged by examining its practical application in the years immediately following the annexation.

Prior to 1st December 1872, native affairs at the Cape were managed from the Colonial Office. With the achievement of Responsible Government a separate Department of Native Affairs was set up, whose functions were described as "the management of native tribes through the government agents; questions connected with missionary institutions; intervention as referee in matters of dispute among aborigines within and beyond the boundaries of the Colony." ¹

The functions of the first Secretary of Native Affairs, Charles Brownlee, were both political and administrative. With his intimate knowledge of the border tribes he was intended as "nerve, pulse, eye and ear to the Ministry in all native affairs." ² Brownlee spoke Xhosa fluently, having lived all his life on the frontier ³ and enjoyed the confidence of both colonists and natives. His avowed intention was to see "existing institutions worked efficiently with the view of preserving peace" ⁴ while at the same time reducing the chiefs' powers. Whether the inchoate native policy of the Colony was thus fashioned by Brownlee, or by Molteno the Cape's first Premier, cannot be fully examined in this study; one can assume that both shared in its formulation.

¹ Cape Argus, Dec. 3, 1872, quoting article by Delta in "Cape Monthly Magazine". By 1877 Parliament had still not established an effective system of control over this department. For prevalent beliefs on native policy see "Imperial Factor in South Africa". p.158-9.

² Cape Argus, 31 Dec., 1872.

³ Cape Argus, 3 Oct., 1874. He was the son of the Rev. John Brownlee. Soon after the 1846 war he became Commissioner at Fort Cox there-after holding magistracies at Somerset East and Kingwilliamstown. He held the post of Secretary for Native Affairs for 5 years, then becoming Chief Magistrate in East Griqualand in December 1876.

⁴ Cape Argus, 31 Dec., 1872.

In broad terms, the Molteno Ministry's policy aimed at abolishing the chieftainship gradually, without disturbing the existing situation too drastically; and to transfer power to magistrates administering Colonial law where it applied, or as in Basutoland, administering regulations proclaimed by the Governor on the advice of an Executive responsible to Parliament. The ambivalence in such a policy is self-evident, and the history of Cape rule in Basutoland is an attempt to equate two contradictory ideas.

On the important issue of land tenure, both Brownlee and Molteno favoured the granting of individual titles to those natives who "deserved" it. "Whatever," Brownlee maintained,⁵ "tends to increase the immovable or not readily movable property of the natives tends to diminish the probabilities of war...". Thus individual land tenure was regarded as one of the most effective arguments against the repressive powers of chief and tribe.

In its general application in Basutoland the Brownlee-Molteno "system" emerges, not unnaturally, as an undoctinaire policy, showing an admirable lack of rigidity and the consequent ability to compromise on the one hand; and on the other, the dangerous tendency towards a policy of drift, and the inclination frequently to leave the method of implementing crucial decisions to the man on the spot.

Charles Duncan Griffith⁶ who took up the post of Governor's Agent in September 1871, after 19 years in the Colonial service,⁷ was a strong personality⁸ and soon won the confidence of the Basuto⁹ - like most primitive tribes more easily charmed by the man

⁵ "Heminiscences of Kaffir life and History and other Papers". p.194.

⁶ For evidence of his personal influence see Germond, p.307.

⁷ Since 22 Nov., 1852 ("Cape of Good Hope", 1871).

⁸ He was particularly conscious of the dignity of his office, even in the stormy days of the gun war. "The authority of the Governor's Agent is paramount in this territory". (Governor's Agent to Secretary for Native Affairs, 10 Mar. 1881. Native Affairs Department 279)

⁹ Rolland (in G17-78).

who administered the system than by the system itself. A strict Victorian moralist, Griffith intended to lead the Basuto with firm, paternalistic guidance into the paths of righteousness and civilization, "disseminating habits of morality and industry."¹⁰

Not fluent in Sotho,¹¹ Griffith relied particularly on Emile Rolland, a trained missionary, richly tolerant, born in Basutoland, who was his Assistant Magistrate and right-hand man in Thaba Bosiu¹² until 1874, when the district was sub-divided and Rolland became magistrate at Mafeteng, three years later being appointed Inspector of Schools.

The other Resident Magistrates were Major Charles Harland Bell at Leribe, where he was celebrated for his speed in moving about on official work; W.H. Surmon with his headquarters for the Berea at present day Teyateyaneng; and John Austen,¹³ magistrate at Moshale's Hoek from which he administered Cornet Spruit with its mixed bag of Thembu, Basuto and Fingoes. The Baphuti chief Morosi came under his jurisdiction until 1877, when the latter acquired a separate magistrate - Hamilton Hope - in his Quthing district. Several of the magistrates spoke Sotho fairly well, though none could write it; all had a practical knowledge of roadmaking and Surmon an understanding of surveying.¹⁴

The magistracies, where these officials and their families lived in bleak discomfort,¹⁵ were situated in the small reserves, the only

- ¹⁰ 15 Mar.1873 (G27-73). Thus, for instance in 1877 (Governor's Agent to Secretary for Native Affairs, 8 Sept.1877. Native Affairs Department 274) he wanted the sale of red ochre prohibited because it was a barbarizing influence.
- ¹¹ Though Sprigg's remark in a letter dated 3 Feb.1880 (Native Affairs Department 279) referring to the 1879 Pitso - "I remember...you corrected Rolland's translation" indicates he knew a fair amount.
- ¹² Cape Argus, 9 Sept.1879.
- ¹³ In Colonial Service since 8 Mar.1853 (Cape of Good Hope 1871).
- ¹⁴ Rolland's Report (28 Dec.1877. Native Affairs Department 274).
- ¹⁵ Austen's Report (G17-78). The courtroom at Maseru was likened to a "second Black Hole of Calcutta" (Bowker to Secretary for Native Affairs, 18 Mar.1878, Native Affairs Department 275). Prior to 1877 only Maseru (Davies Report in G17-78) and the Leribe (Austen's Report G17-78) had district surgeons.

alienated land in Basutoland, linked to each other by deplorable roads. To assist the magistrates enforce order, the Basutoland Mounted Police, comprising natives only, and officered by the sons of chiefs, was established in October 1872.

The first report of Griffith's magistrates, in which he asked them to comment on changes "in conduct, sentiments or social conditions"¹⁶ among the Basuto, indicates the extent of progress in the first eighteen months of European rule among a people eager to assimilate the material manifestations of that rule. All agreed that prosperity had permeated through all levels of society, as shown by the number of agricultural implements being bought and the payment of the hut tax mainly in cash which indicated the freer circulation of money. Internal trade was on the increase, with the issue of 20 licences to traders¹⁷ who sold consumer goods such as blankets, clothes, beads, copper wire and tobacco, sugar, rice, soap and agricultural implements to very discriminating buyers. Externally a brisk trade was developing with the sale of wool, corn and meat to the Free State and Diamond Fields.¹⁸ Under European rule, men were beginning to acquire their own cattle and amass wealth¹⁹ as the danger of being "eaten up"²⁰ by the chief diminished, with the result that the individual's dependence on the chief was reduced.

The sons of Moshoeshoe watched to see how far their power was to be curtailed. The centrifugal tendencies evident in Moshoeshoe's declining years had tended to reduce the paramount's sphere of influence, and this factor, allied to the apparent irresolution of

¹⁶ 15 Mar. 1873 (Q27-73).

¹⁷ This number soon rose to 30 during 1873 and 70 by 1877 (Rolland's Report - Native Affairs Department 274).

¹⁸ Hundreds of wagons were entering Basutoland to collect grain for the Fields. Exports for 1873 were about 2000 bales of wool, 100,000 muids of grain, plus cattle and horses. Imports amounted to some £150,000 (Q27-74). The Orange Free State in 1875 imposed a tax on Basutoland grain in transit (Cape Argus, 6 July 1875).

¹⁹ E.g. in 1876 a group of Basuto bought a hand threshing machine to be worked as a joint stock company.

²⁰ One of the greatest evils of tribalism. It amounted to the chief holding to ransom those who could pay. (See Ellenberger. op.cit. p.267).

his heir, Letsie,²¹ increased the authority of the lesser chiefs.²² Letsie had been living at Matsieng near Maseru since about 1858 while his more aggressive brother, Masupha, occupied the area south of the Putiatsana, near the traditional stronghold Thaba Bosiu.²³ Molapo, whom Letsie hated, ruled in the Leribe district.²⁴ Colonial rule was temporarily safeguarded by the mutual jealousies of these three chiefs, which made "any combination of the whole tribe in the highest degree improbable...except through gross mismanagement".²⁵

Yet the chiefs retained a firm hold on tribal loyalty. Bell at Leribe emphasised²⁶ that Molapo, for example, encouraged the continuation of native custom as a means of holding on to his control. Surmon at Berea suffered particularly from the fact that by allowing Masupha to remain at Thaba Bosiu, the administration was implicitly condoning his defiance. "Indirectly", Surmon added, "he opposes me in every step I take, except in the collection of hut tax, in which he has rendered me good assistance."²⁷ The experienced Rolland, however, warned against the sudden loosening of "old bands of authority" lest it produce dislike of all authority and a resultant lawlessness.²⁸ But by actually whittling away the chief's powers (such as his right of summons) while theoretically promising to safeguard such powers,²⁹ the government entrenched an already anomalous situation.

²¹ Griffith described him as a "weak-minded ignorant man, easily led by others" (G27-73), but this was a mistaken judgment. What appeared to the Administration as indecision, was rather a determination to wait on events.

²² Rolland (Answers to questionnaire sent by Native Affairs Department in July 1878 - Native Affairs Department 275). According to him, Molapo, Masupha, Moletsane and Morosi were quasi-independent.

²³ Instead of being in his "rightful" area, Berea, the Administration failed to move him from Thaba Bosiu.

²⁴ It was he who invited Langalibalele into his country in 1873.

²⁵ Rolland to Secretary for Native Affairs (19 July 1878, Native Affairs Department 275).

²⁶ G27-73.

²⁷ (G27-73). The support was prompted by purely selfish motives as the chiefs, being government servants, were paid out of the revenue thus collected.

²⁸ G27-73.

²⁹ Communication to Letsie (G21-75). Masupha was the first chief to make his fears public. "We are no use as chiefs...the people despise us". (G16-76).

Jealously guarding the rights of the nation and its chiefs were the French Protestant missionaries,³⁰ who inspired³¹ the petition Letsie and his brothers sent to Sir Henry Barkly on 25th February 1872, just prior to the granting of Responsible government to the Cape. It complained of the "silence like the darkness of night" which Her Majesty's Government had brought to Basutoland, arguing that because the Basuto paid hut tax it was their right to be represented in the Cape parliament.

At this stage, however, the isolation of the Basuto was their main safeguard as a people. Their dependence on the Crown's representative was, in Barkly's opinion, the most advantageous aspect of the administrative system for it was he who kept the balance between Colonial and Imperial interests. Consequently the Governor warned³² the chiefs that representation in the Cape parliament would bring Basutoland under the same system as obtained in British Kaffraria - which meant that Colonial law would replace native law entirely, Europeans would be allowed to buy land, no special privileges would be possible for the chiefs, and a limit on the sale of arms and liquor would be unenforceable. The Basuto, Barkly added, would have to make greater advances culturally before they were ripe "for political freedom".

That the common man if not the chief was trying to loosen the hold of traditional authority is evident in numerous instances. Though, in "the absence of a sufficient and dependable armed force",³³ many people still thought the chief was the real ruler and the

³⁰ See appendix II. For descriptions of their hardships see Germond "Chronicles of Basutoland" - p.279 et seq. They published a newspaper "The Little Light of Basutoland" (Leselinyana).

³¹ It is safe to be categorical on this. The Basuto alone could not have understood the niceties of English constitutional usage. Also report in Cape Argus, 23 July 1872, gives the impression representation was a missionary idea.

³² 25 Mar.1872 (G6-72). The Basuto referred to Barkly as "a watcher in a garden driving the birds away from the grain". (Governor's Agent to Barkly. 14 Feb.1877. Native Affairs Department 274).

³³ Bell's Report (G27-73).

magistrate merely a tax collector, and though the chiefs energetically tried to prevent cases coming before the magistrates court,³⁴ the common people were beginning to realise that the magistrates dispensed more equitable justice. Consequently in 1872 the number of civil cases brought before the magistrates was five times as many as in 1871.³⁵ Magisterial impartiality was brought home to the Basuto most clearly in a number of cases where chiefs or their relations were involved. Sekake, eldest son of the chief Molamo, was sentenced by the Chief Magistrate, sitting with two other magistrates,³⁶ to two years hard labour and a fine of five cattle for assault.³⁷ Even Letsie was summoned before Griffith by one of his relations on a question involving cattle and though Griffith found in the chief's favour, the case proved "that the greatest chief as well as the humblest person in the country is subject to the law."³⁸

Release from tribal authority could be obtained in other ways. The simplest outward manifestations of civilization - permanent wood or brick houses, Europeanised clothing - came slowly to a country in which transport and communication struggled along undeveloped tracks,³⁹ but they represented a new development in the social order. After the first few years of Cape rule, the whole nature of the Basuto economy began to change as the country, too small for large scale pastoral or agricultural endeavours, strove to redress the imbalance resulting from the years of insecurity. The years 1872-3 saw the beginnings of an export trade which was to surpass grain, wool or anything else - the export of Basuto labour, at first to the

³⁴ Austen's Report (G20-81).

³⁵ Griffith's Report dated 15 Mar.1873 (G27-73).

³⁶ I.e. as an appeal court.

³⁷ The victims were several old women, one of whom died (Cape Argus 14 Oct.1873). The Sekake case, of course, could have given the chiefs and their councillors cause for disaffection.

³⁸ Cape Argus, 23 Mar.1875.

³⁹ Surmon's Report in G27-73. "Blue coat, round hat and corduroy trousers" were adopted after the Basuto found work at the Diamond Fields (Cunynghame, "My Command in South Africa", p.124).

Diamond Fields and the Cape railways in a trickle as it had done earlier to the Free State farms, and later in greater streams reaching their maximum to the Witwatersrand gold mines.⁴⁰ In these early years it was difficult to get the Basuto to leave home, for they wanted to recoup their war losses by growing grain for sale to the Orange Free State;⁴¹ but a few did go to the Diamond Fields where "the offer of guns has proved a bait".⁴² By 1874 they were being given a "very high character" as labourers superior to Indian or Chinese coolies.⁴³ Two years later⁴⁴ about 15,000 males were going out to work in the Colony and Orange Free State, and at the Diamond Fields, out of a total population of about 127,781,⁴⁵ of whom 25,000 were males above the age of fifteen.

Once the Mosuto had a receipt to prove he had paid hut tax he could get a pass to go out and work.⁴⁶ Changes in the economic structure inevitably wrought changes in the social system which undermined the traditional tribal structure.

The spread of Christianity further weaned the tribesman away from his traditional social usages. By 1877 the Paris Evangelical Missionary Society had 10 mission stations and 65 sub-stations. The Catholics after several years of endeavour had built a mission at Korokoro which served a further four sub-stations.

At a three-day synod held by the Paris missionary society⁴⁷ at Thaba Bosiu towards the end of 1872, 67 out of 79 delegates were natives; a deceptive figure, however, when compared with the number of Basuto who were actually accepting Christianity. In 1871 there

40 Austen reported in Jan.1873 (G27-73) that he had issued 300 passes for 6-12 months service.

41 Griffith (G27-73).Also Germond.p.303. Those who remained raised 30-40 bags of grain per household annually (Cunynghame.Op.cit.)

42 The government did not prevent the introduction of these guns, proving to the Basuto "they are neither feared nor suspected". Rolland (Report in G16-76).

43 Probart speaking in Assembly on importation of labour (Cape Argus, 23 July 1874).

44 Rolland's Report (G16-76).

45 Figures of first census. Griffith preferred them not to go to the Diggings where they learnt bad habits he believed.

46 Increase in numbers can be seen by revenue statements.1872 - estimated revenue from hut tax was £5350(G25-72) 1873 - £7100(G25-73) 1874 £13,659(G21-75).In 1873 actual hut tax collected was £10,000 (G27-74).

47 This continued to be the most influential group. The Roman Catholics had arrived in 1862,the Anglicans came in 1876(See Widdicombe "In the Lesuto".)

were 2183 communicants and 1315 candidates for baptism, and 68 Christian marriages;⁴⁸ in 1873 there were 2300 church members and 1290 candidates for baptism, indicating that, quantitatively, progress was not spectacular.⁴⁹ Decisions reached at Thaba Bosiu show how militant Christianity was attacking the very essentials of the tribal structure, creating a dichotomy in the Christian's loyalties. On the question of the believer's duty to his chief, it was agreed that the Christian must not be made to observe customs repugnant to him. The so-called "inferior" wife who had converted to Christianity must leave her husband and his village; children of widows who were believers must not be given to the dead husband's relatives (as was done by native custom). Completely misunderstanding the social force of the bohali⁵⁰ cattle, the synod recommended that Christian women should protest at this "disgraceful and degrading"⁵¹ custom, a decision which prompted Griffith's reproach that many of the synod's regulations were "activated by a desire...of hastily legislating for, instead of patiently training the heathen into religious ways and habits of thought."⁵²

Education, handmaiden of Christianity, also loosened the bonds of tribal custom. In 1871 there were 2129 children in day schools,⁵³ and no estimate for education in the budget; for 1873 the estimate was a meagre £285⁵⁴ with the number of children in the schools practically unchanged. By 1874 there were 40 mission schools with two seminaries (one for boys at Morija established in 1869, and the

48 Griffith's letter (26 August 1872. A23-73).

49 Griffith (G27-74). Rolland (31 Dec. 1872. Native Affairs Department 272) blamed this on the missionaries' tendency to enact church laws "which touch upon the civil rights of those who are without the pale of the Church". Nevertheless where there were few missions, e.g. Leribe, Quthing) progress towards civilisation was much slower (Rolland's Report Native Affairs Department 274).

50 Equivalent to the Xhosa "lobola".

51 Cape Argus, 7 Nov. 1872.

52 G27-73.

53 A23-73.

54 By comparison with £402 for "police and gaols". In 1875, however, the estimate for education was £3524.

other for girls at Thaba Bosiu) subsidised by the government ⁵⁵ and run by the French missionaries to train the students as teachers. The industrial department of the Morija school concentrated on teaching printing and binding. The residential system in these two seminaries encouraged cleanliness and because they removed the child in his most formative years from the "heathen" influence of the home, Griffith supported them strongly. To promote a system of secular education on a "general, comprehensive" basis, ⁵⁶ and thus cater for the children of non-Christians, in 1874 the government put Basuto education under the control of the Superintendent General of Education ⁵⁷ who immediately began planning the establishment of a number of "model elementary schools" in each magistracy. As part of the scheme for "higher education", about fifteen well-born young Basuto were sent to be educated at Zonnebloem College.

Increased literacy had a rather interesting side effect in Basutoland. Letter writing began to form "a conspicuous feature of social life", ⁵⁸ and was further facilitated by improved postal services run by native contractors. ⁵⁹

⁵⁵ A23-73. It gave £6 p.a. for each boy and £5 p.a. for girls. By 1877 the Catholics had an industrial school at Roma where weaving and cloth-making was taught.

⁵⁶ Governor's Agent to Secretary for Native Affairs (7 July 1874. Native Affairs Department 272).

⁵⁷ Henry Nixon, a trained teacher from Westminster Training College was appointed principal of a training institution to be set up, in Basutoland, and Deputy Inspector of schools (Cape Argus, 24 Jan. 1874) while Dr. Dale, the Cape Superintendent General of Education drew up a set of "Rules for Establishment of Training Institutions and Elementary Schools in Basutoland."

⁵⁸ Griffith's Report (G27-74).

⁵⁹ Report of Maseru Postmaster (G12-77). Also Rolland to Secretary for Native Affairs (Nov.6) and Postmaster-General's Reply (Nov.20) (Both in Native Affairs Department 274). By March 1880 mails from the Colony and Natal were arriving in Maseru every Tuesday evening. (Cape Argus 9 Mar.1880). A Mosuto, Arone Mogoya, was the Contractor (Rolland to Secretary for Native Affairs, 6 Nov.1877. Native Affairs Department 274).

As a means of ascertaining the opinions of the tribe and of conveying the government's intentions to the tribe, an annual pitso was instituted in October 1874, by the Governor's Agent. It gave a new form to a traditional Basuto institution - the deliberative assembly⁶⁰ - at which the paramount after meeting his chiefs was informed publicly of his subjects' views.

Judged by material progress, the administrative system seems to have "succeeded beyond the most sanguine expectation".⁶¹ Griffith could report, with justification⁶² "that the Basuto are contented; that the burghers of the Free State enjoy security; and that agriculture and industry are making progress amongst the Basuto; and finally that Basutoland is no burden to the Colony in a financial point of view".⁶³ Wodehouse had taken Moshoeshee under British protection in 1868 for the first two reasons; the Cape parliament had been promised the last at the time of the annexation and the government continued to budget parsimoniously for a surplus.⁶⁴

But the essential substance of European civilisation still eluded Basutoland. Polygamy, ritual circumcision, cattle marriage - all those tribal customs which stern Victorian morality visualized as obstacles to spiritual progress and hardheaded Victorian realism recognised as dangerous adjuncts to the chiefs' powers - still flourished, except at the mission stations. Tsekelo Moshoeshee might maintain "we are all Englishmen, though our colour is black";⁶⁵ Bell and Austen felt differently. Though they were thrifty and

⁶⁰ The chiefs had to hear the "most cutting remarks without a frown". (Casalis p.234) Orpen (G4-83) compared it to the Pondomise assemblies, where the chief gave the headmen his decision as a joint one with the tribe. At the Thlotse Heights meeting (2 Apr.1883) Abel, a headman, said: "It was always our custom when our late chief wanted to make laws that he called all the chiefs in the country and first spoke with them about it, before having a pitso of the people". (G5708 p.127).

⁶¹ Griffith (G12-77).

⁶² A23-73.

⁶³ From 1873 to 1877 the revenue exceeded expenditure continuously giving the Basutoland Revenue fund a balance of £14,955 by 1 Jan. 1874 when Griffith reported in the first Blue Book on Native Affairs (see Appendix III).

⁶⁴ E.g. in 1874, estimated expenditure for education had been £9423, but actual expenditure was £226. 8s.

⁶⁵ At pitso, 1 Nov.1877 (G17-78).

industrious, "upon the whole," Austen wrote,⁶⁶ "the Basuto as a nation are wedded to their heathen superstitious customs and practices and are thorough pagans". This he attributed to that "feeling of the divine right of Kings"⁶⁷ which Casalis had noticed many years before, a feeling which the older chiefs, clinging desperately to their whittled-down power, encouraged with the continuation of circumcision lodges, the frequent patronage of "prophets" and the marathon yoala⁶⁸ - drinking gatherings. The fact is that the common man in Basutoland was faced with an almost insoluble emotional impasse - a choice between the traditional guardian of tribal fortunes who could still in a more limited way "smell out" and "eat up" his subjects, and a government which, however just, honest and practical, was nevertheless an alien growth and "no part of the people's life".⁶⁹

Patience - and time - was essential to translate the tribesman from one milieu to another. "...these Basuto," Bell emphasised,⁷⁰ "have been despotically ruled for centuries, and must still be held with a firm hand; their rule must not be too suddenly approximated to a state of things, the result of a civilisation of centuries..." Consequently the administration sensibly legitimised cattle marriages and polygamy, thus giving its approval, in this period of change, to those aspects of tribalism which were not actively injurious to the moral standards of the nation.

To strengthen the government's power, and accelerate the "rate" of civilisation, Rolland drew up a list of suggestions, which in themselves adumbrate the lines along which the administrative system

⁶⁶ Q16-76.

⁶⁷ Q12-77. Compare Rolland to Secretary for Native Affairs (20 July 1878. Native Affairs Department 275) enclosing a petition from Letsie and Masupha, the object of which was to arrogate to themselves powers "which no Basuto chief ever possessed".

⁶⁸ A type of native beer.

⁶⁹ Orpen. For instance only Rolland of all the magistrates, had a background rooted in this ambience to some extent.

⁷⁰ Q17-78.

was beginning to work.⁷¹ He recognised the need for good roads to open up the country and emphasize the permanent nature of the government. More government schools should be built to reinforce the administration's hold on the country through the educated man. In addition he pressed for the implementation of pass and liquor laws recommended by the Commission on Native Laws and Customs of the Basutos comprising all the Basutoland magistrates which had met in December 1872 and presented its report to the Assembly in 1873.

Two of Emile Rolland's proposals need special emphasis. He advised the introduction of a regulation restricting the entry of arms and ammunition into the country; and the modification of the land tenure system. The object of the latter was twofold. Rolland believed the chiefs' powers would be diminished if the government's rôle in land disposal were emphasised; but more important, something had to be done to prevent the existing wasteful usage of scarce land. Here Rolland touched, significantly, on the shortcomings of a system where the exclusion of the European entrepreneur threw the burden of land development on government officials short of both time and money.

Of equal importance to the land tenure issue was the question of guns. The imposition by the Orange Free State of a tax of 1/- per head on natives passing through the Republic had led to a marked decrease in the number of Basuto leaving the Thaba Bosiu area,⁷² though many still went to the Diamond Fields where they were buying good Enfield rifles. From Cornet Spruit, however, a continual stream left for the Fields, the Orange Free State and the Cape. Those returning from the Eastern Province public works particularly⁷³

⁷¹ 627-74.

⁷² Because they had to go through the Orange Free State to reach Kimberley.

⁷³ Which is where the majority obviously went because of the proximity of Cornet Spruit to the Eastern Cape.

were bringing guns and ammunition readily obtained, because the Railway authorities referred them to their own magistrates for permission to possess a gun - a practice which made the Gunpowder Ordinance worthless.⁷⁴ As early as 1873 Griffith had condemned the gun trade as so subversive of the government's civilising efforts⁷⁵ that it should be totally restricted along the whole Colonial border.⁷⁶ The government, however, was loath to interfere with what was regarded as legitimate trade; its subsequent equivocation on gun-buying was therefore potentially more dangerous than the actual possession of a gun by a native, as Chalmers, Resident Magistrate at Cradock perceived.⁷⁷ If applicants for gun licences, he wrote, "are to be refused merely because they are coloured (and not because they are the Queen's enemies...) then a law must first be passed to justify a refusal for such a reason." The only way to prevent the Basuto getting guns, therefore, was "to abstain from granting passes to such crowds to go to the Colony and elsewhere where they can purchase them, and whose whole object in seeking permission to leave their homes for a time is to obtain guns". But this would have deprived profitable undertakings of essential labour. And so the Basuto continued to obtain guns.

⁷⁴ Ordinance 2 of 1853, made perpetual by Act 28 of 1864, regulating dealings in gunpowder, firearms and lead. There were several other laws relating to the sale of guns - Ordinance 7 of 1834, Acts 19 of 1856, 14 of 1857, 14 of 1866-7.

⁷⁵ To Premier (12 Mar.1873. Native Affairs Department 272).

⁷⁶ Governor's Agent to Secretary for Native Affairs (24 April 1873. 30 August 1873. Native Affairs Department 272).

⁷⁷ Report dated 28 Dec.1875 (Native Affairs Department 273). Cradock was notorious for gun buying.

CHAPTER IV

When examining the apparently incomprehensible vagaries of Imperial and Colonial native policy in South Africa, one should always remember that such policy was dictated no less by a fear of a general native uprising than by a desire to treat the "aborigines" fairly. Native policy was as strong as its weakest link, and the smallest attempt, by the most minor chief, to demonstrate his strength, would find its echoes in Cape Town and Maritzburg and often even as far as Downing Street.

In Basutoland, the ostensibly unruffled administrative surface was disturbed before 1879 by several "incidents" of varying importance. As the material benefits of the Cape administration made themselves felt in the lives of the ordinary tribesman from the rolling plains of the Leribe to the isolated fastnesses of Morasi's mountain at Qwixtini, the obscurantist chiefs began to gather their resources to organise a reactionary movement, which manifested itself initially in a rush of Basuto labour to the Diamond Fields where guns and ammunition were readily available.¹

The revolt of the Hlubi chief, Langalibalele, against the Natal administration early in 1873 seemed likely to aggravate this movement. After a brief skirmish with a mixed group of Natal regulars and volunteers at the Bushman's River Pass, Langalibalele entered Basutoland. Joseph Orpen, then Resident Magistrate at Gatberg, had learned through his spies that Langalibalele and his sons were on their way to Molapo's district, and on receipt of his report the Frontier Armed and Mounted Police were sent to the Leribe.

¹ Both Griffith and Holland affirm this fact in their reports in G27-74 (the first Blue Book on Native Affairs ever printed after the Assembly had adopted Orpen's motion that such a Blue Book be issued annually before the parliamentary session). Austen, in the same volume, complained of the "reckless sale of arms and ammunition at the fields".

Meanwhile on the 9th December, Molapo's son, Jonathan, had met the Hlubi party in the high, wild Malutis and persuaded them to come to his father's village. Consequently Griffith was able to apprehend the advance rebel party, the main band being arrested some days later.

The effect of the Langelibalele revolt on the Basuto is difficult to assess.² While it could "hardly fail to excite a strong sensation in Basutoland",³ superficially the crushing of the revolt seems "to have done more to place the government in a firm and commanding position than years of careful administration".⁴ Subsequent rumours of dissatisfaction reaching the Cape early in 1874,⁵ were dispelled by Letsie's meeting with his tribe attended by Griffith, when the paramount denied that it was the tribe's intention to rebel, and other speakers described the administration as "sweet as honey". Certainly the governor in his parliamentary address in 1875⁶ could feel gratified at the external manifestations of peace and contentment - the steady increase in revenue, the order and safety - which his government had brought over the previous few years, to a people generally regarded as "the most intelligent and industrious - the most peaceably inclined and tractable - race in South Africa".⁷ Nevertheless Austen warned that the Baphuti had shown marked sympathy for Langelibalele and that only the arrival of the Frontier Armed and Mounted Police and Bell's prompt action in limiting the area of conflict had prevented further trouble.⁸ And while Malapo earned

² Its effect on the Colonial Officers is another matter. It made obvious the fact that native policy in South Africa was an indivisible whole.

³ Governor's speech at opening of first session, 5th Parliament(A1-74)

⁴ Governor's Agent's Report (31 Jan.1874. Native Affairs Department 272

⁵ Cape Argus, 19 Feb.1874.

⁶ A1-75.

⁷ Cape Argus,14 July 1874. See also Cunynghame, op.cit. p.94.

⁸ G27-74.

the gratitude of the Cape Government, his fellow chiefs, especially Masupha felt that by betraying Langalibalele ⁹ he had betrayed the concept of chieftdom.

For the rationale of chieftainship, while apparently subject to erosion by Molteno-Brownlee theory, had in practice been given a shot in the arm by the incorporation into the administration of Moshoeshoe's custom of giving younger sons their own sub-districts.¹⁰ This practice virtually ended Letsie's paramountcy with the result that the political cohesiveness of Moshoeshoe's earlier rule was undermined. The lesser chiefs - Masupha, Molapo and Morosi - behaved like independent rulers; so that later, when successive Governor's Agents importuned Letsie to maintain his authority as paramount they were asking him to do something which their own administration had made difficult.

The case of Nehemiah Moshoeshoe is another interesting example of the type of issue which was likely to create mistrust among the Basuto without the government wholly perceiving its effect. The second son of Moshoeshoe, after the 1858 war with the Orange Free State, Nehemiah had been allowed by Sir George Grey to settle in Nomansland (near present day Matatiele), where Wodehouse permitted him to remain on condition of good behaviour. Soon after, Adam Kok was moved from Philippolis to Nomansland as a buffer against Nehemiah's Basuto and just prior to Kok's death in December 1875, East Griqualand was brought directly under Colonial control. Consequently Nehemiah found the land he believed was his, being parcelled out as farms, and claimed it on the basis of a grant purported to have been made by Faku to Moshoeshoe. Following an extraordinary parliamentary

⁹ Tylden "The Rise of the Basuto", p.123 ff. Even Cetewayo was annoyed (Bell to Governor's Agent, 19 June 1875. Native Affairs Department 273). The animosity felt towards Jonathan after the Basuto Rebellion may have been prompted in part by his rôle in Langalibalele's capture

¹⁰ Letsie, years later (Pitso, 16 Jan.1882 (G33-82) blamed the Basuto-land unrest on this division of the country into districts under recognised chiefs. The system placed too much emphasis on the personality of the paramount, rather than the position, as a binding force.

parliamentary session in November 1875, a commission, of which Griffith was a member, was appointed to look into East Griqualand affairs, and found that Nehemiah had failed to establish his claim to Matatiele. Subsequently, in October 1876, he was tried for "instigating the various tribes to rise against Government"¹¹ and sentenced to a term of imprisonment by Capt. Mathew Blyth, the magistrate at Kokstad.

From all the magistracies came reports of Basuto disinterest in the Matatiele affair.¹² Even the percipient Holland reported less than the usual amount of pre-occupation with political affairs among the closest relatives of Nehemiah's who lived in his area; and Austen disclosed that the intransigent Morasi had helped apprehend Nehemiah and his fellow rebels.¹³

Their deductions were furiously incorrect. The Basuto believed Matatiele was part of their country which was their tribal heritage and they were extremely interested in it.¹⁴ Consequently in the following year a petition, dated 25th May, was presented to the Assembly by "the chiefs and people of the Basuto tribe".¹⁵ It asserted that the Basuto claim to the country "below the Drakensberg" was just "because it was their lawful inheritance"; and that Nehemiah, having petitioned the government for this land on behalf of the Basuto, when it was being alienated in favour of non-resident strangers, had been illegally sentenced and deprived of his property.

¹¹ Orpen "Some principles". p.31. He helped Nehemiah in his defence.

¹² Yet Isakele, sub-inspector of the Basutoland Police was dismissed in February 1876 for overstaying his leave in East Griqualand where he was "no doubt...busy drilling Nehemiah's Basutos and giving them the benefit of all he has learnt as an Inspector of Police". (Memo. from Bright. 7 March 1876. Native Affairs Department 274). Alexander Letsie was also visiting Nehemiah at the time of the trial (Blyth to Griffith 20 Dec.1876. Native Affairs Department 274).

¹³ G12-77.

¹⁴ Griffith himself knew Letsie and the tribe laid claim to this land. (Griffith to Governor, 29 Sept.1871. Native Affairs Department 279). At one pitso, Letsie's councillor 'Ntho referred to it as Mosheshoe's land on the other side of the Malutis.

¹⁵ A7-77.

This petition was presented to parliament a month after Nehemiah's trial ¹⁶ and acquittal at Kingwilliamstown on a charge of sedition by the Chief Justice and a jury of colonists. A further petition in 1878 ¹⁷ re-iterated Basuto claims to Matatiele; and in 1880 ¹⁸ the question came up again when Orpen moved in parliament that there should be no alienation of the land claimed by the Basuto between the Umsinvubu and Gatberg.

Nehemiah's motives are unimportant to this study. What is important is that, contrary to the magistrates' impressions, the Basuto, because of their principle of tribal ownership of land, were strongly affected by what they regarded as the unlawful alienation of territory assumed to be the tribe's property. The depth of their feeling can be gauged from the chilly reception accorded to Blyth when he became Governor's Agent some six years after the event. ¹⁹

Nehemiah's case prompts the question: how much did the magistrates really know of popular opinion and did they enjoy the confidence of the common people, or even of some of the chiefs? ²⁰ When Sekake and Tsekelo ²¹ broke the law and were punished, did the Basuto accept these facts as equably as Sir Henry Barkly purported

¹⁶ One cannot call it a "re-trial" because the first judgment had been an arbitrary one by Blyth.

¹⁷ A12-78.

¹⁸ Cape Argus (1 July 1880).

¹⁹ In his report for 1883 Blyth noted too that the Matatiele claim had not been forgotten. (Native Affairs Department 284).

²⁰ That Griffith realised a gap existed between tribe and administration is manifest from his request for "secret service money" - (Governor's Agent to Secretary for Native Affairs, 24 Feb. 1879. Native Affairs Department 276). "In the government of this territory, many arrangements have to be conducted, investigations made and inquiries pursued....the most important information may be wanted, but to obtain such, it is necessary to spend money". (There is no record of his receiving the money).

²¹ Tsekelo appropriated two horses. He was sentenced to 3 months hard labour and 25 lashes. Griffith remitted the lashes on review.

in his reply to Letsie's loyal address? ²² Had the Langelibalele affair really proved Basuto loyalty or was their help merely a matter of expediency? What was the exact relationship between Letsie and Cetewayo? ²³ Was the violent Basuto reaction to Disarmament a spontaneous repercussion to something which touched the tribe closely or was it a building-up of disaffection over the years because of Nehemiah, Langelibalele, Moresi and others?

Human behaviour is irrational and difficult to comprehend, and in politics, as in every other human activity, there is much of "eloquent unreason". Sometimes, as in the instances above, the Basuto hid their reactions; sometimes, as in the case of Carnarvon's Confederation despatch and Froude's visits, their response was more articulate, possibly because the tribe was guided here by its European administrators. Froude frequently hinted ²⁴ at the possibility of Basutoland being handed over to the Orange Free State "as a balance for the Diamond Fields", ²⁵ with the result that the rumours of an imminent cession threw the tribe into a condition of extreme panic. ²⁶ Though Carnarvon hastened to deny the charge that Basutoland was to be handed over to a foreign power, the uneasiness remained among a people noted for the length of their tribal memory.

The Gaika-Goaleka War of 1877-8 appears to have left the Basuto unmoved; every magistrate testified to the absence of sympathy with Kreli, and a general lack of interest in the Transkeian war. ²⁷ The exception was "in the secluded and barbarous mountain district" ²⁸ of Quthing which was close to the seat of war, and where the Baphuti

²² A12-77.

²³ Since 1875 Cetewayo had been sending occasional messengers to Letsie to buy ostrich feathers (Governor's Agent to Premier 26 May 1875. Native Affairs Department 273) and for other undisclosed reasons Governor's Agent to U.S.N.A. 16 Oct. 1878. Native Affairs Department-275).

²⁴ Vide "Selections from the correspondence of J.X. Merriman. Vol. 1. p. 24.

²⁵ Ibid.

²⁶ Griffith to Secretary for Native Affairs (21 Apr. 1876. Native Affairs Department 274). A copy was sent to the Home Government, omitting the derogatory references made about Froude.

²⁷ See Barkly, Davies and Surmon in Q17-78.

²⁸ Report in Q17-78.

chief Morosi felt the wave of disaffection sweeping up from the tribes to the South.

Morosi ²⁹ had apparently received his magistrate, Hamilton Hope, "with his whole heart", ³⁰ after the sub-division of Cornet Spruit in May, 1877. By mid-June, however, ³¹ the aged little chief, "rash and fearless to an extraordinary degree for a native", ³² asserted his independence by maintaining that the magistrate's power only extended to collecting hut tax and issuing passes. Morosi declared he had submitted neither to Moshoeshoe nor the British, and announced that he would defy Hope's right, as magistrate, to try cases and impose fines. Hope heard this "preposterous impertinence patiently" ³³ explaining to Morosi that a chief's jurisdiction did not include enforcement of decisions by seizure of property or fines in criminal cases, but that he could merely arbitrate in civil suits providing both parties were agreeable. Implicit in the dispute were two incompatible beliefs - that Morosi still retained his position as chief, but was expected not to hinder those of his people who wished to exercise their rights as British subjects. ³⁴

Griffith, with the limited force at his disposal, could not, however, afford this type of crisis in his magistracies. "You are", he reprimanded Hope, ³⁵ "expected to use the material placed in your hands to the best advantages and substitute diplomacy and moral persuasion for physical force or high handed proceedings". While Griffith sought Letsie's help with this recalcitrant chief, Morosi suddenly made a "most manly and complete apology and promised never

²⁹ Morosi was a Baphuti chief never wholly subdued by Moshoeshoe. See below.

³⁰ Governor's Agent to Secretary for Native Affairs (9 May 1877. Native Affairs Department 274).

³¹ Governor's Agent to Secretary for Native Affairs (11 July 1877. Ibid).

³² Hope to Rolland (24 Nov. 1877. A49-79).

³³ Hope to Governor's Agent (23 June 1877. A49-79).

³⁴ Governor's Agent to Secretary for Native Affairs (11 July 1877. Native Affairs Department 274).

³⁵ 4 July 1877 (A49-79).

to oppose me again".³⁶ Nevertheless, Griffith, on Brownlee's instructions, sent George and Sofonia Moshoeshee, both officers in the Basutoland Police, to question Morosi. His explanation that Hope had misunderstood him was accepted as an adequate defence by the Native Affairs Department.³⁷

In November Morosi announced his tribe's intention of coming armed to the annual Quthing pitso. Rolland, now Acting Governor's Agent,³⁸ immediately cancelled the pitso so as to avoid a public trial of strength with Morosi.³⁹ Unfortunately the irascible⁴⁰ Hope's chosen course lay in a different direction. Before receiving Rolland's decision he had communicated directly with the Secretary for Native Affairs (then at Kingwilliamstown with the Governor so as to be near the frontier operations), requesting that a Frontier Armed and Mounted Police patrol be sent to Palmietfontein as a warning to Morosi.⁴¹ Rolland was furious, deprecating Hope's action both as provocative to Morosi and subversive of the Governor's Agent's position.

Meanwhile the change of ministry in February 1878, which brought the zealous Sprigg "like Cincinnatus"⁴² from the farm to "accept his policy at Sir Bartle Frere's hands",⁴³ substituted William Ayliff as Secretary for Native Affairs in Brownlee's place.

Whereas the Molteno-Brownlee policy had been a policy of "drift" theoretically based on the gradual breaking down of the chiefs' powers (but mitigated in this intention by its practical application), the aim of the Sprigg policy of "vigour" was to break the chiefs'

³⁶ Hope. 26 June 1877 (Ibid.)

³⁷ Brownlee to Governor's Agent (7 Sept. 1877. A49-79).

³⁸ In the absence of Griffith, who in Sept. 1877 had been appointed Commandant of the Frontier Armed and Mounted Police and thereafter Commandant general of the Colonial forces in the Transkei, for which he earned the Order of St. Michael and St. George.

³⁹ Rolland to Hope (28 Nov. 1877. A49-79).

⁴⁰ Bowker described him as "an irritable and hasty man". (Undated memo. Native Affairs Department 275).

⁴¹ Hope to Secretary for Native Affairs (29 Nov. 1877. A49-79). He wanted the Frontier Armed and Mounted Police kept on the Herschel-Quthing border as a deterrent.

⁴² Martineau "The Life and Correspondence of Sir Bartle Frere", Vol. 2, p. 211

⁴³ Cape Argus, 7 Aug. 1880. Frere had replaced Barkly as governor in March 1877 (see below)

power summarily. "...our intention," Sprigg told his constituents at East London,⁴⁴ "is to recognise no chief whatever in the Colony... our object will therefore be to break up all tribes....."

The intention to abolish chieftainship soon, if not "by a single coup"⁴⁵ was reflected in Ayliff's first despatch to Rolland on 9th February 1878;⁴⁶ further displays of disloyalty, Morosi was to be warned, would lead to more severe action.

Within a month Morosi was again provoking the authorities by refusing to arrest his rebellious son Doda who had fled after being served a criminal summons. Hope correctly refused to accept Morosi's offer to pay his fine insisting Doda stand trial.

Early in March 1878, J. H. Bowker replaced Rolland as Acting Governor's Agent;⁴⁷ Bowker firmly insisted Morosi return Doda, on whom sentence was now passed. In his report to Ayliff,⁴⁸ the Acting Governor's Agent definitely attributed the difficulties in Quthing not to Hope's mishandling of the issue, but to the "war spirit" which had spread to the Orange River from the "Tembu chiefs on the sources of the Kei". Nevertheless, because the government had lost confidence in him,⁴⁹ Hope was removed from the Quthing magistracy and replaced in June 1878 by Austen who sentenced Doda to four years hard labour.

Unfortunately, Austen's negligence in allowing Doda to escape⁵⁰ precipitated a further crisis just when the Zulu victory at Isandhlwana

⁴⁴ Cape Argus, 14 Mar. 1878. Coupled with the intention of breaking the chiefs was the admirable objective of finding positions in the Native Affairs Department for educated natives.

⁴⁵ Cape Argus, 23 Mar. 1878.

⁴⁶ A49-79.

⁴⁷ He was so busy in Quthing and then the Leribe that he never took over the office duties at Maseru. (Rolland to Secretary for Native Affairs. 10 June 1878. Native Affairs Department 275).

⁴⁸ 18 April 1878 (A49-79).

⁴⁹ Ayliff to Bowker (25 Apr. 1878. Ibid.)

⁵⁰ In January 1879 (Bright to Governor's Agent. 28 Jan. 1879. Native Affairs Department 846).

had flushed the native tribes with a sense of superiority in warfare which the Frere-Sprigg combination intended to combat by the introduction of the Peace Preservation Act.⁵¹

On prima facie evidence that Morosi had engineered his son's escape,⁵² Ayliff acceded to Griffith's request that the chief be brought to trial. In a moment of panic Austen, without warning the traders or local natives, abandoned the magistracy,⁵³ and Davies had to be sent to restore confidence backed by George Moshoeshee and a detachment of the Basutoland Police.

Griffith, aware of the difficulties involved in fighting in the mountainous Quthing area, warned against the over-hasty launching of an attack.⁵⁴ On the very day his telegram reached the Native Affairs Department, Morosi precipitated the rebellion by sacking the magistracy and plundering a trading post.

Griffith, despite his indifferent showing in the 1877 war, was appointed Commandant of the Colonial forces which irresolutely invested Morosi in his strong, almost impenetrable mountain fortress. A detailed discussion of the Morosi Campaign is not part of this study. It is sufficient to say that the rebellion severely tested Basuto loyalty; and that the Colonial forces comprising the Cape Mounted Rifles and Yeomanry and Burgher contingents (together with a group of Basuto volunteers under Lerothodi⁵⁵ who were never used to storm the mountain) were a defectively organised and badly disciplined company.

⁵¹ Griffith had returned as Governor's Agent in September 1878. The Basuto believed he had come back to implement disarmament.

⁵² Griffith to Secretary for Native Affairs (28 Jan. 1879. A49-79).

⁵³ He believed, quite rightly, that an attack was pending in view of Morosi's continual belligerence. Subsequently Morosi's son-in-law, Mofetudi, admitted Morosi had intended to kill Austen.

⁵⁴ Griffith to Secretary for Native Affairs (26 Feb. 1879. A49-79).

⁵⁵ Letsie's heir. This is the spelling of the name in contemporary documents. The Sotho orthography is actually Lerotholi. In Sotho an "l" preceding an "i" is pronounced "d".

On 24th October Sprigg arrived at Morosi's mountain ⁵⁶ with Griffith and on the following day met the chief who refused to surrender unconditionally. After three days' continuous shelling the mountain was finally taken on 20th November, ⁵⁷ Morosi being killed in the assault. ⁵⁸

In Cape Town, in July, parliament had appointed a select committee including Merriman, to investigate Basutoland affairs. While it deliberated the government considered the future of Quthing and its Baphuti inhabitants. On 2nd February 1880 the Governor proclaimed an amnesty for all rebels except Doda and other prominent leaders, who under a proclamation of 4th March 1879 were tried in January 1880 by a special circuit court at Aliwal North. ⁵⁹

To settle the question of land disposal, Frere, in his 1880 opening speech announced that Quthing was being surveyed into farms, shortly to be auctioned under a quit-rent system, to black and white settlers alike, with every precaution being taken to protect the loyal Baphuti by granting individual titles. The Governor and his ministers were here basing their actions on the premise that the government was not forever pledged to the inalienation of Basutoland; rebellion, it was argued, entailed forfeiture of tribal rights to the occupation of land, as a "just and expedient punishment". ⁶⁰

Griffith, on the other hand, ⁶¹ upheld the inalienability of Basutoland on the basis of Wodehouse's promise to Moshoeshe. He dismissed the government's proposal as "neither just nor expedient" and from a practical viewpoint likely to leave the Basuto discontented while depriving them of the isolation which had always been the basis

⁵⁶ For description see "The State" August 1912.

⁵⁷ To Sprigg's relief. "I trust", he wrote to Griffith (8 Dec. 1879 Native Affairs Department 279) "there will be no more wars in my time".

⁵⁸ His body was mutilated by the troops (Cape Argus, 10 May 1880).

⁵⁹ 84-83.

⁶⁰ 81-80. Also Frere to Hicks Beach (18 Mar. 1880. C2569. Page 32).

⁶¹ Kimberley to Governor (20 May 1880. A38-80).

of successful government in Basutoland. Orpen, a staunch supporter of the Basuto maintained ⁶² that the Basuto by helping voluntarily to suppress Morosi's revolt ⁶³ could not be punished by confiscation of tribal common land, and that even if Quthing were exclusively the property of Morosi's tribe, no colonial law existed for giving the courts or the government the right to confiscate for sedition or rebellion.

Two other interested parties - the tribe and the Imperial Government - now indicated their views. On 6th February, Letsie wrote to Griffith, quoting Barkly's letter of 26th March 1872 ⁶⁴ on the question of land alienation, at the same time denying that the Basuto as a nation could be held responsible for Morosi's defection. This was followed by a petition from Letsie, presented by Orpen to parliament in March, ⁶⁵ in which the paramount declared that when Wodehouse had accepted the Basuto as subjects he had solemnly promised that certain lands within defined limits would always remain the property of the Basuto nation; to deprive them now of such property was a contravention of Wodehouse's promise.

Soon after the opinion of the Colonial Secretary, Lord Kimberley, reached Cape Town. ⁶⁶ While recognising the Cape government's right to handle the native tribes within its own borders, the peculiar position of the governor in his rôle of High Commissioner introduced a factor which concerned the Imperial Government directly. In actual fact this point lacked validity, as the Governor's rôle in Basutoland was purely that of governor and excluded the duties as

⁶² "Some Principles of Native Government Illustrated".

⁶³ Frere however felt the Basuto had not been "so actively loyal", (to Hicks Beach. C2569. Page 31) as to be entitled to special consideration.

⁶⁴ See Chapter III, note 32. Letsie called Barkly's letter "the charter of the Basutos".

⁶⁵ All-80.

⁶⁶ Kimberley to Frere. (20 May 1880. A38-80). The Argus (22 June 1880) thought it showed evidence that he had been advised by his "Kinsman", Wodehouse.

High Commissioner ⁶⁷ completely. More relevant, possibly, was Kimberley's contention that the heavy burdens Her Majesty's Government had incurred as a result of the recent native wars gave it a right to express an opinion. Like Orpen and Griffith, the Imperial Government regarded Basutoland (including Morosi's district) as an inalienable native territory, on the basis of Buckingham's despatch of 9th July 1868. ⁶⁸ This had made the establishment of a Native Reserve in Basutoland a fait accompli, because it finally put all the settlement of Basutoland in the hands of Wodehouse who negotiated the annexation with Moshoeshoe on the basis of "Basutoland for Basutos only".

By 1880, nevertheless, the British Government tended to regard this isolation of the Basuto as a temporary expedient while the tribe was gradually prepared "for that closer association with the white population which the progress of civilisation and settlement will render inevitable". ⁶⁹

Why then did Kimberley warn Frere against the inception of such a policy? Why did parliament delay over the disposal of Quthing? ⁷⁰ Because the Sprigg Ministry's plans for the disarmament of the native tribes - Frere's measure to prevent a repetition of the Gaika-Gcaleka and Zulu wars - was now exciting native suspicion. As far as the Basuto rebellion is concerned, it is extremely difficult to disentangle cause and effect in the Morosi-Disarmament issues. The Cape Argus ⁷¹ blamed the Morosi revolt on Griffith's

⁶⁷ This point shows how the ambivalence of the Governor's dual rôle created confusion.

⁶⁸ See Chapter I, note 16.

⁶⁹ Kimberley to Frere (op.cit.)

⁷⁰ Cape Argus (30 July 1880). The House was still debating the parcelling out of Quthing. By March 1880, a land commission of which Austen was temporary chairman had been appointed to subdivide Morosi's land. (Austen's Report, 31 Dec. 1880. G20-81).

⁷¹ 3 July 1879.

announcement at the 1878 Pitso of the government's intention to disarm the tribe. Frere ⁷² and Sprigg ⁷³ however blamed it on Isandhlwana; and Austen and Bowker on the spread of "the war spirit" from the Transkei to the Orange River, ⁷⁴ as manifested initially in the Langalibalele revolt.

History has no hierarchy of causes. Isandhlwana, the announcement of the Disarmament policy in 1878, Morosi's revolt, the jealousy of the chiefs, the development of a new generation who knew nothing of the hardships of 1865-8, and resented foreign rule; all acted on each other in some giant osmotic process and contributed to the full scale war which dealt the Cape administration its death blow in Basutoland.

⁷² To Hicks Beach (2 Mar.1880. C2569 Page 9).

⁷³ Cape Argus, 2 Sept.1879.

⁷⁴ Bowker to Ayliff (18 Apr.1878. A49-79).

CHAPTER V

While not the sole cause, disarmament was the occasion of the Basuto rebellion. The application of the Peace Preservation (or Disarmament) Act, to Basutoland in the face of determined Basuto opposition undoubtedly sparked off what is frequently called "the Gun War", particularly as the decision to disarm the Basuto was formulated during the restless period of the Morosi campaign.

The Basutoland Annexation Act had created an anomalous situation in Basutoland, for while the Governor had the right to "make, repeal, amend and alter" the regulations governing the territory, a second legislating power, parliament, could extend its acts to Basutoland - acts over which the Governor could use his right to reserve or withhold assent. Responsible government had changed the situation insofar as the Governor's executive control over Basutoland was concerned for he now acted on the advice of his Cabinet, which in turn was responsible not to him but to parliament. The Governor's prerogative concerning assent to bills still however remained, as did his extra-colonial position as the Crown's representative through the High Commissioner's post; and Frere's unusual though perfectly constitutional use of his right to dismiss the Molteno Ministry over the control of troops during the Gaika-Goaleka campaign indicated he did not intend lightly to surrender his powers as Governor.¹

Sir Bartle Frere had assumed the governorship in March 1877, at the request of Carnarvon who felt he was a statesman capable of carrying out confederation in South Africa. Long years of Indian experience had moulded "an already active, energetic and masterful" ²

¹ For an imaginative, though brief, analysis of Frere's character and beliefs see De Kiewiet "Imperial Factor in South Africa" p.127 ff.

² Molteno "The Life and Times of Sir John Charles Molteno". Vol.2, p.285. Onse Jan described him as "a man of ability, of stubborn will power, of unlimited self confidence...." (The Life of Jan Hendrik Hofmeyr, p.172)

character into an able administrator determined "to control everything himself."³ While Molteno and he had clashed from the start, Sprigg, who got in "by the kitchen door",⁴ always regarded him with enormous esteem, working with him "in complete harmony".⁵

Before his arrival in South Africa Frere had expressed the opinion⁶ that "among the natives of Africa a tendency to self-esteem is a common weakness; and, in a vain, uncivilised race, the possession of a gun is apt to encourage the most pernicious amount of self conceit..." "It is our duty", he therefore wrote in a minute,⁷ "to disarm and render them harmless". From the moment of his arrival he concentrated his energies on persuading his ministers⁸ to disarm all native tribes where practicable, so as to make rebellion impossible. Disarmament, Frere maintained, was bound up with "the great contest between barbarism and civilisation in South Africa";⁹ the history of Ireland in the 19th Century had indicated further that a wise government could not allow a portion of a population whose loyalty was questionable to carry arms. And his own experience in India made him favour a law which would limit the carrying of arms without a licence.^{9a}

It was not long before he, too, developed definite ideas about the Basuto national "character". They were industrious and frugal, he wrote to Hicks Beach,¹⁰ but also weak, vain and self-important.

³ Molteno, op.cit.

⁴ Hofmeyr, op.cit. p.177.

⁵ Martineau. Op.cit. Vol.2, p.221. Hofmeyr (op.cit.p.171) describes this as a "flexible Sprigg ministry supplanting an obstinate Molteno Ministry".

⁶ To Hicks Beach (15 March 1880. C2569. Pages 18-19).

⁷ 16 Jan.1878. (Martineau. Op.cit. Vol.2. p.207). Cunynghame (op.cit. p.169) writing a little later, spoke of the "dangerous extent to which the natives are becoming armed...with excellent modern rifles"

⁸ Letter to Hicks Beach (note 6). He put his Indian experience at his ministers' disposal and they listened to his suggestions. According to Worsfold ("Sir Bartle Frere", p.50) his commission gave him wide powers to deal with the natives "at his discretion".

⁹ To Hicks Beach (17 Mar.1880. C2569. Page 41).

^{9a} Martineau (op.cit. Vol.1. p.528).

¹⁰ 2 March 1880 (C2569. Page 7).

His minute on native administration ¹¹ suggested they should be administered not by the Cape Government, but by the High Commissioner whose powers could be limited by a Council partially composed of natives.

Already on 23rd December 1877, Frere openly confirmed ¹² his commitment to total disarmament in a speech at Kingwilliamstown, which received little sympathy from Sprigg's predecessor. "The most simple and practical measure will be to disarm all natives beginning with the Gaikas except such as have their arms registered by permission of government. This can at present only be done by an arbitrary exercise of power, relying on a ratification of the act by parliament". ¹³ Molteno rejected the proposal as "absolutely inadmissible"; his successor, Sprigg, was more compliant, declaring soon after he took office that "we intend to disarm all natives within the Colony". ¹⁴ "The Governor and I", he added, "think that disarmament is an essential requisite for peace".

In May 1878, a Disarmament Bill was introduced in the Assembly by Upington, the Attorney-General. Copied largely from the Irish Disarming Acts of the British parliament ¹⁵ the main scope of the Bill provided that the Governor, acting on ministers' advice, should have power from time to time to proclaim certain districts "within which it shall not be lawful for any person (except such persons as are herein-after exempted) to bear, carry, or have in his or her possession...any arms, weapons...or other ammunition". ¹⁶

The Assembly debate on the Bill clearly indicates the support it obtained purely as a permissive measure to enable the Executive to proclaim and de-proclaim disturbed areas where the need arose; it received the Royal Assent on August 2nd 1878 under the euphemistic title "Peace Preservation Act" (Act 13 of 1878).

¹¹ Cape Argus, 3 Feb.1880.

¹² Worsfold (op.cit.p.59) claims that while at the frontier during the 9th Kafir War, he learnt that all the chiefs wanted a rising against the colonists.

¹³ Molteno, op.cit. Vol.2, p.288.

¹⁴ Cape Argus, 14 Mar.1878.

¹⁵ Martineau. Op.cit.

¹⁶ C2569. p.27.

The Act was received with some disquiet in the Colony, the intention of disarming the Basuto being especially dismaying. During his term as Acting Governor's Agent, Bowker ¹⁷ had assured Letsie the proposed legislation would not be applied to his people. But Sprigg's actions soon indicated that he intended using it as a mandatory act to disarm every native under colonial jurisdiction.

Griffith first heard from Sauer of the Government's intention to disarm the Basuto, when he was returning to his post as Governor's Agent towards the end of September 1878. ¹⁸

On October 5th the Prime Minister sent Griffith "semi-official" instructions on the proposed Basuto disarmament. ¹⁹

"Assemble the leading men and acquaint them with the native policy of the present government, which I believe you thoroughly understand to be a government of a barbarous people in the proper sense of the word - that they are not to be allowed to ruin themselves and every body else - but that our superior intelligence is to be beneficially exercised on their behalf - that they are to be held in hand and guided and trained with the view of raising them out of barbarism into civilization - That the proof of manhood is not the possession of a gun but the capacity to observe and maintain order and to assist in advancing the moral and material prosperity of the community - The guns after delivery will be valued and each man will receive compensation - and an assurance that the government recognises its duty to protect the people from aggression and will perform that duty.....If you find any unwillingness on the part of the Basutos you will oblige me by informing them that the government are resolute in the matter and are determined to carry it out but I prefer doing it with the consent of the people."

Griffith in his reply to Sprigg on October 16th ²⁰ pointed out that under the provisions of Section II of the Annexation Act a colonial law such as the Peace Preservation Act did not apply to Basutoland and could not legally be enforced. ²¹ Further, because he expected resistance from both Morosi and Masupha, enforcement

¹⁷ Argus, 24 Sept. 1878.

¹⁸ Griffith to Secretary of Native Affairs, 19 May 1881 (A30-82).

¹⁹ (Native Affairs Department 279).

²⁰ A30-82.

²¹ He was wrong. Under Clause II a colonial law could be applied by legislative or executive action.

would require "a sufficient force to put down at once any attempt at resistance".²² On the same day he wired Sprigg asking whether he should inform the people at the annual Pitso on 24th October of the Government's intention to disarm. Sprigg's reply - "I wish the thing to be done peacefully if possible"²³ is characteristic of the whole Frere-Sprigg thinking on disarmament. The months ahead were to demonstrate, repeatedly, this lack of comprehensive planning carried through to a logical end, the ad hoc decisions and the attempt to put through a contentious measure without the necessary force.

The 1878 Pitso opened in an atmosphere restless with the awareness of the recent Gaika-Goaleka troubles, Morosi's intransigence and the fear of disarmament. Griffith's announcement that the government had decided to disarm all colonial natives including possibly the Basuto, was received in sullen silence. Its effect was to reduce the Governor's Agent's influence just when the government needed all the moral strength it could mobilize.²⁴

Having thrown their apple of discontent among the Basuto chiefs, the Cape government now asked Griffith to obtain the views of observers which would "materially assist it in adopting the wisest and best measures".²⁵ Frere had already in January 1879 asked for the opinions of the Paris Evangelical missionaries. Both Moore Dyke and Casalis declared against disarmament,²⁶ correctly judging that future confidence in the government depended on the judicious handling of the issue.

The missionaries, wrote the former,²⁷ were usually reluctant to give their opinion, because they were so frequently reproached for

²² Griffith to Sprigg, 16 Oct. 1878 (A30-82). Sprigg did not disclose the contents of this letter at the time.

²³ Sprigg to Griffith, 16 Oct. 1878 (A30-82).

²⁴ Ayliff to Governor's Agent (21 Jan. 1879 - Native Affairs Department 846) admitted "it would appear that there is some excitement among the Basutos and it well becomes you to use all your means of information for finding out to what extent it does prevail and what it is likely to end in..."

²⁵ Ayliff to Griffith, 24 May 1879 (A49-79).

²⁶ To Secretary Aborigines Protection Society, 31 March 1879 (C2569, p.1).

²⁷ To President of Conference of Paris Mission, Basutoland, 20 Feb. 1879 (C2482, p.7). See Mabile's opinion in Germond, pp.327-8.

trespassing on "the ground of politics"; yet the missionary must try and understand his flock, "even in political affairs". The Basuto had been induced to work on the Fields by the promise of "liberty to purchase guns";²⁸ and while Europeans could accept the logic of disarmament, "we deceive ourselves if we think we can force this people to understand or admit the justice of the measure". Eugene Casalis quoted the opinion of his son Dr. Casalis, that the only way to peace in South Africa was to show confidence in the loyal tribes, among whom the Basuto were the foremost.

Till now the Colonial Office had sanctioned the principle of disarmament, accepting²⁹ Frere's assertions that the Cape government had taken the "greatest care" disarming the tribes on the Eastern frontier, distinguishing between loyal and rebel subjects, giving scrupulously fair compensation, and indeed implementing its policy as it had been intended - as a measure for "the security and welfare of Her Majesty's subjects in the Cape Colony" and not as a punishment for disloyalty.

Soon after the missionaries signified their disapproval, James R. Morrisse, a trader at Moleletsane's wrote to the Colonial office³⁰ emphasising that to deprive the Basuto of their guns was to "convert a firm and reliable friend into a dangerous and troublesome enemy". At the same time the Aborigines society indicated³¹ that so far disarmament had not been carried out as contemplated by law, that is by proclamation of disaffected areas, and that the present system

²⁸ The guns, once bought, remained the individual's property. (cf. the question of reeds. "If a man planted reeds they would belong to him" (04-83. Part II. Appendix A. p.24).

²⁹ Robert G.W. Herbert (Under Secretary of State for Colonies) to Secretary Aborigines Protection Society, 17 April 1879 (C2569) p.2)

³⁰ 7 May 1879 (C2482) p.1. Moleletsane was chief of the Bataung, a Tswana clan. [Lagden, Vol.I. pp.19, 110].

³¹ Secretary of Aborigines Protection Society to Under Secretary of State for Colonies, 14 May 1879 (C 2569, p.3).

of disarmament was more likely to cause loyal tribes to become disaffected than to ensure the welfare of Her Majesty's subjects.

Influenced by these communications the Colonial Secretary, Hicks Beach, sent a copy of Morisse's letter to Frere anxiously asking for a report of the Cape government's intentions and enjoining "the exercise of much caution and forbearance".³²

In August, against a background of rumours of unrest in Basutoland³³ and uneasiness in London, the House of Assembly debated the application of Sprigg's native policy to Basutoland. Some members like Orpen, while appreciating the "abstract desirability of disarmament",³⁴ noticed that events over the past year had proved that the Sprigg administration envisaged by disarmament, something far different from the original Peace Preservation Act - something "which bore an Indian cast on it".³⁵ In the ensuing division, nevertheless, many members voted "on the clear understanding" that "Colonel Griffith had said that disarmament could be carried out with safety",³⁶ an indication of the House's confused attitude on disarmament.

At this juncture when half the House had returned home and a full debate was impossible, the report of the Select Committee on Morosi was published. Rolland's evidence³⁷ confirmed by Bowker, laid the blame for the Morosi revolt not on Doda's escape, but on Griffith's announcement at the 1878 Pitso, which "profoundly moved" the whole country. Rolland mistakenly understood that the government

³² Beach to Frere, 30 June 1879 (C2482, p.13).

³³ Cape Argus, 15 July 1879, quoting a report in Northern Post that the Basuto were not ploughing as usual and that Masupha was building schansen on Thaba Bosiu. Surmon (15 Feb. 1879, Native Affairs Department 276) had already reported that in his district the Basuto were buying saddles and blankets.

³⁴ Orpen, quoted in Cape Argus, 28 Aug. 1879.

³⁵ Sauer. Report in Cape Argus, 30 Aug. 1879.

³⁶ Rhodes. (Cape Argus, 20 April 1881).

³⁷ Cape Argus, 9 Sept. 1879. But Rolland had never been in Quthing. after the magistrate was appointed Austen G13-80.

had now definitely abandoned Basuto disarmament as "unjust, unpopular and impracticable" and suggested that as the Colonial Secretary intended to be at the 1879 Pitso he should make this policy reversal clear.

Sprigg, however, had no intention of abandoning his "madman's dream",³⁸ though the protracted efforts to subdue Morosi had amply proved Merriman's assertion that the government dare not attempt the Basuto disarmament.³⁹ The Cape ministry's minute on disarmament, dated 18 September 1879,⁴⁰ declared that the evidence of those competent to judge (which excluded the traders who would lose a "source of profit" by the measure) agreed that disarmament could be effected without open resistance, providing it were cautiously attempted. Nevertheless, and in spite of the government's wide powers under the Annexation Act, no positive, constitutional steps for disarming the Basuto had been taken by October 1879, when the date for the annual Pitso approached and Sprigg decided personally to visit Basutoland.

His subsequent actions obscure his motives. Did he go to persuade the Basuto himself of the necessity for disarmament or to present them with a fait accompli? If the former, it was "gross conceit"⁴¹ to think he could succeed where Griffith had failed; if the latter, why were his final words to the chiefs, "when the proper time arrives (my italics) instructions will be given to your magistrates to take your guns..."⁴² By the curious equivocation which characterised Sprigg's implementation of Basuto disarmament, his publicised policy of "vigour" miscarried, humiliating the government's leader before

³⁸ Cape Argus, 2 Sept.1879.

³⁹ Cape Argus, 26 Aug.1879. "It is devoutly to be hoped" this paper wrote "that no wrong-headed vigour on the part of the government or its agents will make plainer what is already plain enough."

⁴⁰ Sent by Frere to Hicks Beach, 22 Sept.1879 (C2482) p.299.

⁴¹ Cape Argus, 21 Oct.1879.

⁴² (G13-80) Sprigg at schoolroom meeting Maseru, 17 Oct.1879.

those whom he was wont to describe as "children".⁴³ Further, to appear publicly in Basutoland before Moresi's defeat, was a major psychological blunder.

The momentous 1879 Pitso held on the 16th October at Maseru, was attended by between six and ten thousand Basuto, including Letsie and Lerathodi, and other leading chiefs; Sprigg, Griffith and the magistrates at Leribe, Cornet Spruit, Mafeteng, Maseru and Berea;⁴⁴ Rolland, now the Inspector of Schools, who acted as interpreter; most of the Paris Society missionaries and numerous traders and Free State farmers.

Before coming to the contentious disarmament issue, Sprigg briefly explained that it had been decided to double the hut tax, the proceeds to be used solely in Basutoland.⁴⁵ His explanation of the government's disarmament issue which then followed is remarkable for its ineptitude and clumsy tactlessness. "The Government feels that like the rest of the natives in South Africa, you possess very much the character of children, and the Government knows that children cannot at all times trust even themselves....The Government wants you to become like the white man and not to regard it as a proof of manhood that you possess guns." He did not believe that the Basuto would fight rather than give up their guns; they were too wise and too loyal to risk destruction like the Gaikas and Gcalekas.

The burden of the argument in the open discussion which followed, hinged on Basuto loyalty in the past, and fear that disarmament was the outcome of some hidden fault the government had found with the tribe. "I think" mourned one chief⁴⁶ "that being black is a very

⁴³ Cape Argus, 14 Oct. 1879. The Basuto reacted strongly to Sprigg's humiliation, for as we have noted earlier, they were a people easily influenced by the charisma of authority.

⁴⁴ Maj. Bell, A.C. Barkly (son of the previous Governor), W.H. Surmen, H.L. Davies and C.O.H. Bell respectively.

⁴⁵ On roads, a model farm, schools, and an industrial school. (G13-80). The magistrates recommended this measure be carried out very carefully (Governor's Agent to Secretary for Native Affairs. 30 July 1879 Native Affairs Department 276).

⁴⁶ G13-80.

great misfortune". Even the evasive Letsie (whose actions were important as a pointer to the lesser chiefs and headman) asked Griffith whether "we scratch out our own eyes, or whether we scratch out the eyes of the government with these nails of ours". Lerothodi contemptuously suggested that "if we have committed a crime and have trifled with the peace of the Queen, let it be said right out to us, and let us be told that we are naughty boys..."

The Pitso ended on an inconclusive note; Irvine, a member of the Legislative Assembly,⁴⁷ who was present, came away feeling very firmly⁴⁸ that Sprigg had decided to postpone the enforcement of the Peace Preservation Act till a more "convenient season". The following day, however, the chiefs and their representatives were summoned to the Maseru schoolroom for a private meeting with the Premier, at which the provisions and scope of the Peace Preservation Act were carefully explained. As an example, perhaps, of Moshoeshoe's dictum that "language was not given to man to reveal his thoughts but to conceal them", the Basuto chiefs spoke out more freely than they had done at the Pitso. Sofonia⁴⁹ expressed his misgivings over disarmament, recalling that the Basuto had initially preferred Cape rule to Natal's, because the latter colony disarmed her natives. "I say with boldness"⁵⁰ he proclaimed bitterly and with justification, "that a black man is not accorded equal rights with a white man"⁵¹..... Event after event happens and we are left in complete ignorance of it ... The promises we have received pass away and disappear....other men come who do not know anything about these promises".

47 He was one of the most important traders in Basutoland and an opponent of Sprigg's (Sprigg to Griffith. 8 Dec.1879. Native Affairs Department 279).

48 (Cape Argus, 20 Apr.1881). In a speech in the House of Assembly he said he felt all present had shared his opinion.

49 Griffith mentioned that government servants were not supposed to oppose any measure of the government but he had allowed these officials to speak. This was "not to be regarded as a precedent for the future"G(13-80). Sofonia had been appointed a sub inspector in the Basutoland Police (Governor's Agent to Secretary for Native Affairs. 11 Apr.1877, Native Affairs Department 274) in place of Tsekele who had overstayed his leave (Governor's Agent to Col.Sec.23 Feb.1876. Native Affairs Department 274).

50 G13-80.

51 A conviction which Sprigg's comment that "we think the European race is endowed by the Almighty with superior intelligence" did little to dispel.

It was the egregious Tsakelo,⁵² however, who spoke most bluntly. "If government thinks that by taking away a few rotten guns it will prevent war, I do not agree with it.... quarrels, and not the possession of guns, are the real causes of war.... if the fear of war is the only reason for disarmament, I would beg respectfully to say that a more powerful and better method of preserving peace would be to take away all grievances from the hearts of the people".

Sprigg's policy was undoubtedly a logical one, having, as he did before him, the recent example of the Gaiikas, Gcalekas and Zulus, who had been able to sustain large-scale resistance to white rule because of the possession of guns. But sometimes the logical policy is illogical in terms of human relationships. And though Sprigg might expatiate on the reasonableness of disarmament, though Frere might describe it as giving "practical effect to theories imperfectly carried out", the stubbornness of the Basuto response made it a dangerous and irrational course of action.⁵³

The eloquence of the chiefs' reaction surprised and consequently, restrained Sprigg. While he insisted "that there be no mistake on the subject, that the policy of disarmament which was announced to you by myself at this Pitso is still the policy of the government"⁵⁴ he agreed that the government "leaves the matter for the present...when times have become quieter ⁵⁵.....you will see that it is for your own advantage."

⁵² He had been educated in France and mixed, it was said, in better society than Sprigg before his premiership (Cape Argus, 25 Nov. 1879). Rolland described him as "a restless scheming" fellow who thought he was a great politician because he had visited Europe. (To Secretary for Native Affairs, 13 Apr. 1876. Native Affairs Department 274).

⁵³ "Writing long after the event", Ellenberger noted, "one may be permitted to wonder whether in disarming the natives, the Colonial government was not simply doing its duty. But the feelings of the Basutos should have been taken into account and the point seriously considered whether that policy perhaps right in principle was not dangerous and whether persisting in it, would not meet with formidable opposition". ("A Century of Mission Work in Basutoland", p. 208)

⁵⁴ G13-80.

⁵⁵ It must be remembered that in October 1879, Morosi was still holding out on his mountain.

Both pro- and anti-Sprigg opinion agree he left the Basuto with the impression that disarmament had been temporarily shelved. Back in the colony however Sprigg described the press reports of the Pitso as false and designed to damage the government,⁵⁶ alleging he had clearly indicated to the Basuto that the government intended to enforce disarmament.⁵⁷

In December the magistrates "very gingerly...liberated their souls",⁵⁸ in the reports which later appeared in the 1880 Blue Book on Native Affairs.⁵⁹ All suffered from the difficulties inherent in ascertaining the real opinions of an illiterate population. Only Henry Davies, who had been absent for nearly 10 months fighting Morosi, felt disarmament could be carried out peacefully; had he been a more highly trained observer he might have recognised the danger signs in the increase of circumcision lodges in his district. Barkly, in command of Cornet Spruit, which had had an unsettled year because of its proximity to Morosi, qualified his recommendation of disarmament by noting the strong repugnance felt by all whether Christian or heathen, to the measure; Austen, the deceased Morosi's magistrate, maintained that providing disarmament were judiciously carried out (by, for example, allowing the leading men to retain their arms on payment of a licence) no difficulty should result. Both Major Bell and his son, C.G.H.Bell, ("the fledgling official" at Advance Post⁶⁰) - that is, the two magistrates whose districts lay furthest from the seat of the 1879 discontent, reported that the people did not speak about disarmament, though they were concerned enough over it. Surmon,

56 Cape Argus, 24 Feb.1880, letter from Geo.Hay, Kingwilliamstown to Sprigg.

57 Cape Argus, 11 Dec.1879. It accused him of now saying not what he had actually said at the time but what he found it convenient to maintain he had said.

58 Cape Argus, 10 May 1880. In the House of Assembly (Cape Argus 28 May 1880). Solomon said it showed great courage by government officials to express differing views, because of the government's "malignant" vindictiveness to such dissentients.

59 G13-80.

60 Cape Argus, 10 May 1880.

who had commanded a Basuto contingent for 4 months in the Morosi campaign and was consequently closer to his Basuto dependants warned that immense anxiety was felt by both the white and black inhabitants of his district.

These reports taken in conjunction with Rolland's evidence before the Select Committee on Morosi that disarmament was likely to be a source of rebellion, were hardly unequivocal encouragement of government policy, yet they were regarded as such.⁶¹ The Sprigg ministry, had come to power on its native policy, whose basic premise was disarmament, and it intended to stand or fall by that policy. Consequently on November 23rd, the Morosi campaign having finally ended, Sprigg informed Griffith that the proclamation of disarmament was imminent and ordered him privately to request missionary and magisterial assistance. "If the Disarmament business is managed with discretion", the Premier wrote,⁶² "we shall have a great success there - and we shall be able to meet Parl^t [sic.] and show the opposition Irvine and Co. that all their gloomy predictions are falsified, and we shall not need to keep up a huge military establishment in the future. And I feel sure you will carry the thing through discretion and that you will instil into the magistrates and people the spirit which animates the government". In a circular to his magistrates dated December 1879, Griffith asked them to explain government policy as laid down by Sprigg to their people emphasizing it was meant for the benefit of the Basuto, to establish peace and plenty.⁶³

Griffith's circular of December 22nd to chiefs and petty chiefs⁶⁴ announcing the imminent implementation of disarmament, making surrender of guns a test of loyalty. "I believe.....that the hour has come that I must advise you and remind you of the words that have been said by

⁶¹ Frere to Hicks Beach, 15 Mar.1880 (G2569.p.17 ff.) Sprigg at East London on 19 Feb.1882 (Cape Argus Feb.20) said disarmament had been initiated partly on Rolland's advice; which was absurd.

⁶² (8 Dec.1879. Native Affairs Department 279).

⁶³ This was a reference to the Basuto saying "Khotso Ki mala" - peace is plenty.

⁶⁴ Cape Argus, 10th Jan.1880.

the Premier, the master⁶⁵ of the colony, on the day of the Pitso and on the following day...You went there and you were told that the government had strongly decided that it is good for the Basuto to give up their arms; ... When the government think that the time has come to give up your arms, show them your loyalty at once.... The one who will be most desirous to show his loyalty will bring his gun to the magistrate of the district in which he lives. Then will be given to him a receipt and a month after he will receive money of the value of the gun..."

Why, having decided on disarmament, even to the extent of planning the details, did the Cape government not immediately proclaim the Peace Preservation Act as applicable to Basutoland? Because the intention of this circular, as the private correspondence preceding it indicates, was presumably to achieve disarmament in Basutoland through Griffith's personal influence, without invoking an Act which parliament regarded as permissive legislation applicable to disaffected areas.⁶⁶ "The thing has to be done gradually and carefully", Sprigg wrote in a confidential letter to Griffith,⁶⁷ "and with all consideration for the circumstances of the hour, while at the same time you will be firm and show no indication of wavering in the policy - I have no intention of proclaiming the P.P. Act [*sic*] except after consultation by letter with you I depend upon you to furnish me with hints and suggestions You must be able to get very close to, and talk confidentially with, many of the chiefs and their sons, and by that means you can influence the undercurrent of public feeling".

⁶⁵ From this description, came Merriman's nickname for Sprigg of the "Little Master" (selections from correspondence J.X. Merriman, Vol. 2). The Editor (p. 32 footnote) notes that his "lack of inches and rather schoolmasterish dignity helped to make the nickname stick".

⁶⁶ Sprigg to Griffith (telegram 20 Dec. 1879. Native Affairs Department 279) agreed a proclamation would be necessary to supplement Griffith's notice. See also Sprigg's semi-private letter to Griffith (10 Apr. 1880. Native Affairs Department 279) in which he admitted voluntary surrender would be preferable to disarming "according to Law" (his italics).

⁶⁷ 19 Jan. 1880 (Native Affairs Department 279).

Later Frere maintained that the method of implementing the measure was decided on Griffith's advice and with his "entire concurrence".⁶⁸ It was nevertheless believed that privately he shared Rolland's views given before the Select Committee.⁶⁹ If this is true the burden placed on Griffith was an intolerable one.

The issue of the December circular drew an immediate response from the French missionaries. In December 1879, Mabilie, who had served for 20 years in Basutoland, wrote to Frere⁷⁰ offering a few observations on disarmament. "You may answer me" he commented shrewdly, "with solid arguments which may convince the head, reason, understanding but not the heart... I love the nation amongst which I have so long laboured. I love and care for their earthly interests as I care for their heavenly welfare."

Frere, in his reply based his actions on the premise that every law which restricts individual liberty requires the justification of necessity. "Every country" he argued "of composite nationality has at one period or another of its history had to go through the same process of disarming some part of the population." In time the Basuto would "recognize the good feeling which prompted the government, and be thankful that they were not deterred by any appeal to their feelings from doing what was a necessary and just act, though an unpalatable one."

Soon after the Rev. Coillard passed through Cape Town on his way home and he too submitted a memorandum to Frere,⁷¹ in addition to having conversations with the Governor.⁷² "Either", wrote the missionary, "the measure will be enforced and we may surely expect some serious disturbance, or the Basutos will simply be appealed to, and

⁶⁸ Frere to Hicks Beach (15 March 1880. C2569. p.22)

⁶⁹ Cape Argus, 4 Nov.1879.

⁷⁰ 29 Dec.1879 (C2821. pp.2-3).

⁷¹ Coillard to Frere, 12 Jan.1880 (C2821. pp.6-7)

⁷² Frere to Mabilie. 17 Jan.1880 (C2821. pp.4-6)

the result will be a very partial one; a confession of weakness in fact. In either case the prestige of government will be lowered and the consequences are to be dreaded."

As in his reply to Mabilie, Frere emphasised the spirit rather than the letter of disarmament. "...all well-wishers to the natives or to the British government should concur in representing to the Basutos the necessity in matters of this kind of trusting a good deal to the presumed justice and wisdom of government;..... you will agree with me that a very large amount of the writing and speaking has been directed against what may be thought or said of the measure by those who do not trust the Government, rather than against the intrinsic reasons for or in opposition to disarmament."

Frere sincerely believed that his ministers were activated by the deepest desire for Basuto peace and prosperity and that the missionaries' duty lay in making their charges comply with the law.⁷³ If evil resulted because of Basuto resistance, would "the moral guilt be with the ministers of the Cape government who decided on the measure as essential to the public peace, or on those who have artificially stimulated the resistance of the Basutos by assuring them that they were an ill-used and oppressed people.?"

Mabilie's reply ⁷⁴ is the key to the missionaries' attitude. "These people can be easily raised to a high standard of civilisation... But oh! remember this, they have a keen sense of what is right and wrong; their intellects are acute, their minds clear. They will love and trust those who treat them justly, even if unkindly; but they will have sullen obedience only to those whom they are not able to trust fully."

From this letter emerges the dichotomy between two different philosophies; to Mabilie the native was a man, to Frere a child. Their

⁷³ 7 Mar.1880 (C2021. p.11). For "ministers" one can read "Frere himself".

⁷⁴ 24 Mar.1880. Ibid. pp.12-13.

correspondence demonstrates the tragic paradox that "truth has two forms, each of them indisputable, yet each antagonistic to the other"; it symbolises the insolubility of many great moral issues at any time and in any place.

For Mabilie, long years of missionary work among the Basuto were his guarantee that he understood them and was entitled to interpret their wishes. For Frere the missionaries' role was the passive acceptance of the government's superior, practical political knowledge. The missionaries were political infants; their understanding, for example, of the constitutional arrangements for Basutoland was hazy and naive.⁷⁵ "If it [the legislation] is incomprehensible and the reasons for it difficult to be understood, I submit" wrote Frere to Kimberley,⁷⁶ "that it is the duty of those who have the welfare of the people at heart, to explain it was necessary in the opinion of the government for the public safety...." It was, he added "the bounden duty of the Christian teacher to inculcate obedience to the law, and the use of none but legal means to get the law amended by the legislature."

Was Frere right? Could disarmament have succeeded had the missionaries not pre-judged the measure; and were they failing in their duties as Christian educators, by not inculcating in savage breasts, the first lesson of civilisation which is obedience to the law? Disarmament involved the oldest of all political problems - the rights of the governing, the duties of the governed. To have achieved agreement, both missionaries and ministry would have had to start from different premises.

Brownlee,⁷⁷ writing some ten years later, maintained that after the 1877 war the government "as in duty bound, cast about for some measure

⁷⁵ Frere to Kimberley, 27 July 1880 (C2755. p.45)

⁷⁶ 10 May 1880 (C2821. p.1)

⁷⁷ Brownlee "A Chapter in the Basuto War", p.3. His opinion at the time is indicated in a letter from J.Sivewright to Mrs.Merriman (2 Mar. 1879)(Merriman Papers). He kept "constantly harping that nothing but the Disarmament would ever have made a single native south of the Tugela raise a finger against us".

to ensure the security of the colony, and to prevent war in the future, and the measure which suggested itself was the Peace Preservation or Disarmament Act of 1879. Had there been any possibility of carrying out the provisions of this enactment, it would have proved for Natives as well as colonists the best measure ever passed by the Colonial legislative." The fault was that the government began "at the wrong end."

The ease with which the initial disarmament was effected among the Fingoes ⁷⁸ led the government to believe the people were not dissatisfied. "Nevertheless" continues Brownlee, "a deep feeling of bitterness was engendered and remains to the present day. Compensation was made to the full value of the arms surrendered, but as a rule it was less than half of what the purchasers had originally paid for the surrendered guns." ⁷⁹

Orpen, staunch friend of the Basuto, writing in 1880 ⁸⁰ also found fault not with the principle but the implementation of disarmament. He suggested that the idea of disarmament should be allowed to penetrate into the people's minds through the headmen, who would then report on the number of men in each district bearing arms. The guns would be valued by a board comprising magistrate, headman and trader, the magistrate to be allowed to give licences after surrender not only to those who were loyal and trustworthy but to those who needed a gun.

Unfortunately the implementation of disarmament gave the reactionary chiefs an opportunity to rally dissident elements in the tribe. "Insensibly and unwittingly the government became the strongest allies

⁷⁸ After proclamation of the Act on 21 April 1879 in Tembuland and Transkeian territories, 4,932 guns and 8,741 assegais were surrendered. In 15 Ciskeian territories, however, the numbers fell sharply after the proclamation, from 5,545 to 383 (C2569. pp.24-26)

⁷⁹ Brownlee. op.cit. p.6.

⁸⁰ "Some Principles". "Privately", according to Sprigg, "he went entirely with me in my views" (Sprigg to Griffith. 13 Feb.1880. Native Affairs Department 279).

of those who, up to that time in an insignificant minority, chafed under civilization and wished to restore the old order of things..."⁸¹

Consequently Griffith and his magistrates found themselves appearing in the invidious rôle of agents of a measure suspected by even the most moderate and intelligent tribesman.⁸²

⁸¹ Merriman to the Graaff Reinet Advertiser (Reprinted in Cape Argus 2nd December 1880.

⁸² Barkly to Governor's Agent (8 May 1880. Native Affairs Department 277

CHAPTER VI

Between January and September 1880 the Cape government and the Basuto tribe drifted into a state of mutual antagonism, more the result of complete misunderstanding than evil intention. Early in the new year, the Rev. A. Mabilie forwarded a petition from Letsie¹ to Sir Bartle Frere and the Queen. The petition had obviously been drawn up by a more sophisticated mind than the paramount chief's Frere² rightly identified it as the work of "an accomplished European... well acquainted with the best mode of clothing a sentimental appeal, addressed to an European audience, with the local colours of Basuto imagery". It dealt with the difficult constitutional question of the original Basuto annexation; the reply of Sir Henry Barkly³ to the Basuto request for representation, had been a clear indication that colonial law was not intended to apply to Basutoland. As recently as the previous year Bowker, while Acting Governor's Agent, had assured the tribe the disarmament law was meant for colonial natives only.

Nevertheless when Frere and his cabinet met in March, they decided that the petition did not justify a material change in the orders given to Griffith, namely voluntary surrender of guns for a suitable period, followed by the proclamation of the Peace Preservation Act, and the forfeiture of guns without compensation; "domiciliary visitation" was not, however, envisaged at that stage.⁴ "I mention this for your own information, not for publication" Sprigg wrote to Griffith. "I am not going to do anything that will give just cause for a rising of the people".⁵

¹ Sent from Rakhuiti, and dated Jan.21st (A12-80).

² Frere to Hicks Beach, 2 March 1880 (C2569 p.7). The delay in sending it was because he was waiting for Sprigg to return to Cape Town so as to hold a cabinet meeting.

³ 25 Mar.1872 (C6-72).

⁴ Frere to Hicks Beach (2 Mar. and 15 Mar.1880. C2569 pp.7 and 22 respectively). Even when in India he had strongly recommended that domiciliary visits be in no other hands but the supreme government's. (Martineau, vol.I, p.328ff.)

⁵ (Confidential despatch. 26 Feb.1880. Native Affairs Department 279).

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Masupha with his usual habit of embarrassing the officials when an important measure was being carried out, immediately ordered his people not to give up their guns till a reply came to Letsie's petition.⁶ Griffith warned the government that if this continued, something more than moral force would be required to protect those who surrendered their guns. Thus before the Disarmament Act had even been proclaimed, Griffith perceived the ambiguity of the Loyals' ⁷ position, which was to result, primarily, in the ultimate demise of Cape authority in Basutoland.

On February 26th, H.E.R. Bright, Under Secretary for Native Affairs sent his ministers' official reply to Letsie.⁸ The reasons for disarmament had been given at the previous Pitso by the Colonial Secretary, who had made it quite clear that disarmament would not be done suddenly but that the government intended to "stand firmly" by its stipulated policy; and the time for the proclamation of the Peace Preservation Act had now arrived.

Within a week, further crucial communications ⁹ arrived from the Under Secretary of Native Affairs. The first announced the forfeiture of Quthing as a result of rebellion, the land to be auctioned under Act 14, of 1878, save for a reserve to be allotted to the loyal Baphutis under conditions of individual tenure.¹⁰ The proceeds of the auction were to be used to repay the Basutoland Treasury the £12,500 illegally appropriated by the government for the recent war.¹¹ The doubled hut tax and disarmament proposals were to remain. Hot on

⁶ Bell informed Griffith (Frere to Kimberley, 10 Aug. 1880, C2755, p.64) that on 23rd Jan. about 400 armed men had been sent by Masupha to prevent a Fingo chief giving up his arms in terms of Griffith's December circular.

⁷ This term will be used to denote those who obeyed the government and did not rebel. The Basuto called them Mateketa (holders of licences); the rebels were Mabelete (those who kept guns). (Germond, p.362).

⁸ 26 Feb. 1880 (A12-80). Griffith wrote to Letsie (Governor's Agent to Secretary for Native Affairs, 17 Mar. Native Affairs Department 277).

⁹ Both dated 4th March.

¹⁰ 2/311. 4 Mar. 1880 (A12-80). Griffith was left in the dark as to whether this meant the whole of Quthing or the part occupied by the rebels (To Secretary for Native Affairs, 19 May, Native Affairs Department 277).

¹¹ Up to 30th June 1879 it had cost the Colony £1,222,704 (Treasurer-General in Assembly. Cape Argus, 8 July 1879).

the heels of this first despatch came the second ¹² enclosing the proclamation of the Peace Preservation Act in Basutoland and asking Griffith to have it translated into Sesuto and printed. The date of surrender of guns was "to be filled in by you so as to give one calendar month, and no more from the date of the proclamation." Griffith was to appoint a Board of Valuers in each district, consisting of the magistrate, a trader and the headman; when the surrender was complete his subordinate magistrates were to recommend to him, for submission to the Secretary for Native Affairs, the name of those who might safely be entrusted with arms.

The Imperial government reacted immediately to these steps. "I strongly recommend caution", Hicks Beach warned Frere, ¹³ "although I do not wish to interfere with responsibility of your ministers who must clearly understand no Imperial troops will be furnished for purpose, and colony must deal with any difficulties which may arise."

Subsequent mismanagement in Basutoland shows that in spite of Frere's ambitious re-organisation scheme for the Cape's military machine ¹⁴ little had been achieved by 1880, ¹⁵ in addition neither he nor Sprigg had any real idea of the force necessary to implement their contentions policy. By March 1880 however the point of no return had been reached. ".... from the date" Frere admitted to Hicks Beach ¹⁶ "when the Prime Minister of the colony pledged himself to carry out the Act in Basutoland, it has been practically impossible for the government to withdraw, even if any better arguments had been urged for their withdrawal." The logic of the Act needs to be continually emphasised. Frere was right in observing that a good government

¹² Under Secretary for Native Affairs to Governor's Agent 2/371. 4 Mar.1880 (A12-80).

¹³ 10 Mar.1880 (C2569, p.6).

¹⁴ Walker, p.371.

¹⁵ Colley's "soldier's eye discerned the poor discipline and poorer preparation of all the Cape forces". (De Kiewiet "The Imperial Factor in South Africa", p.262).

¹⁶ 15 March 1880 (C2569, p.22).

protects its subjects, making the carrying of arms unnecessary; he was right too when he described the fair and reasonable terms of the Act, which, unlike the Irish model, excluded domiciliary visits.¹⁷ Both Frere and his ministers, however, seeing little risk of rebellion in the measure¹⁸ failed to perceive that the main flaw in disarmament was not its principle but its implementation. Certain acts because they impinge on private liberties run contrary to the grain of public life¹⁹ and can only achieve their purpose if sufficient force, moral or physical, is available; disarmament fell into this category.

The burden of disarmament was now wholly Griffith's. From Cape Town Sprigg was urging all haste, repeating "I rely very greatly upon your influence with the people and the great respect they entertain for you".²⁰ Mabile^{now} refused to print the Sesuto version of the proclamation,²¹ which appeared on April 6th in the Government Gazette. Mabile's action had naturally delayed its simultaneous appearance in Sesuto, so that the surrender date was extended to May 21st.

A further petition was now drawn up by Letsie at his village Rakhuiti on 22nd April 1880²² repeating the previous Basuto protests against disarmament and adding the tribe's dissatisfaction with the decision to implement the measure within a month, though the tribe had begged the enforcement be delayed till after the House had received Letsie's previous petition.²³ In the middle of the existing unrest

¹⁷ This point and the government's insistence that no force be used, were continuously stressed in Sprigg's "semi-private" communications to Griffith (See for e.g. 12 Mar. 1880, 26 Feb. 1880, telegram 5 April, all in Native Affairs Department 279).

¹⁸ Frere to Hicks Beach. 17 Mar. 1880 (C2569, pp. 38-41).

¹⁹ of. Prohibition in America.

²⁰ "semi-private" letter (6 April 1880, Native Affairs Department 279).

²¹ 2 April 1880 (A12-80). His action was undoubtedly influenced by his correspondence with Frere. He refused to print because he believed no date would be fixed until parliament had discussed Letsie's petition; whereas in fact April 6th was filled in as the date of proclamation and May 7th as the date of implementation.

²² A10-80.

²³ Letsie to Griffith (4 May, Native Affairs Department 277).

over disarmament and Morosi's land, the government decided to proceed with^{the} other decisions proposed in January. By the governor's proclamation dated 12th April 1880²⁴ the annual hut tax was increased to £1 (R2) per hut; more serious was the proclamation, of the same date,²⁵ providing that in the government reserve at each magistracy, traders and other individuals resident in Basutoland could on application to the Governor's Agent, obtain a quit rent grant of 1 or 2 morgen, at a rental of 10/- per acre, the money to be used to improve the township at the seat of each magistracy. This latter proclamation was a direct contravention of the condition under which Moshoeshe had ceded his country to Wodehouse. It therefore ran contrary to all tribal usage both in its creation of individual land titles and its alienation of tribal land.

The resultant agitation seriously jeopardized the whole basis of the administration. Whereas magistrates had previously appeared as the common man's protection against the arbitrary behaviour of the chiefs, now their rôles were reversed and the chief appeared as the tribesman's guardian against the agent of the hated disarmament law. Rebellion was not, however, contemplated; the prevailing attitude was one of "wait and see".

On April 27th, a seven-man deputation under the leadership of Rev. Cochet²⁶ left Basutoland to present to Parliament Letsie's two petitions on Morosi's land and disarmament. They arrived in Cape Town two days²⁷ after Frere's opening speech on May 7th, in which he outlined the position to that date.²⁸ "In the case of Basutoland to

²⁴ G4-83.

²⁵ G4-83.

²⁶ "A well-educated and very intelligent young French missionary" (Frere to Kimberley, 30 May 1880, (G2755, p.7). He did not, according to Frere, seem to understand the constitutional issues too well. (Frere to Kimberley, June 8. Ibid. p.9).

²⁷ Cape Argus, 10 May 1880.

²⁸ A1-80.

which the provisions of the Act [Disarmament] have been recently extended, every precaution has been taken to make the people thoroughly acquainted with the intentions and motives of the Government. Some guns were at once surrendered, others have gradually been sent in; and the ordinary people have shown a disposition to comply with the requirements of the law. The chiefs have, however, exhibited no such inclination...."

The magistrates' success and the country's attitude can in fact, be gauged from the number of guns surrendered between 6th and 30th April.²⁹ Only in Quthing, where the government had already forbidden the carrying of guns³⁰ was there any appreciable obedience to the order. In the Leribe, eight guns were surrendered, at Maseru and Cornet Spruit nine each and at Mafeteng eleven.³¹

Respite for the Basuto came from an unexpected quarter. Following the presentation of Letsie's petition to parliament the Opposition used the debate on the Peace Preservation Proclamation as a vote of censure of the government. Because the debate's result could not be known in Basutoland until May 25th at the earliest, the surrender date under the proclamation was extended to 21st June.³²

The proclamation itself was now dated 21st May 1880. It listed those who were exempted from surrendering their arms; all others who failed to do so could be "forthwith arrested without any warrant issued" and dealt with by a magistrate.³³ Frere and his ministers clashed over the assignment of the right to search;³⁴

²⁹ A12-80. Parliamentary Return of surrender of Arms under Peace Preservation Act. Before 6th April the figures were: Leribe (11), Berea (51), Maseru (11), Cornet Spruit (19) and Mafeteng (22).

³⁰ U.S.N.A. to Griffith 31 Mar. 1880 (A12-80).

³¹ By May 19th, Griffith had paid out £817.8s.3d. in compensation for surrendered guns (Griffith to Secretary for Native Affairs, 19 May 1880. Native Affairs Department 277). By July 82 people had surrendered their weapons in Cornet Spruit, and in Thaba Bosiu 47, including 20 Europeans.

³² Sprigg to Griffith, 14 May 1880 (A12-80).

³³ A12-80. This was under Sections 5 and 6 of the Act.

³⁴ Memorandum from Frere to his Ministers (C2755, p.4). This was in contradiction to the proclamation of Act 13 of 1878 as laid down in Bright's despatch to Griffith of March 4th and Frere to Hicks Beach of March 2nd (above) and even represented a change in Sprigg's opinion (see his semi-private letter to Governor's Agent, 12 Mar. 1880. Native Affairs Department 279).

Frere felt this dangerous privilege should be entirely in the magistrates' hands and "exercised with great care and discrimination".

In the event the ministerial view prevailed and anyone who had been exempted or held a licence to possess a gun, could "upon reasonable suspicion" search for arms and seize them without a warrant.

The marathon no-confidence debate ³⁵ opened on May 21st with the disarmament issue and the constitutional position of Basutoland as its focal points and the House showing a mature and jealous defence of its rights.

Fuller, ³⁶ declaring that compensation for surrender of guns involved the expenditure, unauthorised by parliament, of a large sum of public money from the Colonial treasury, maintained the issue he was raising was not "Disarmament or no Disarmament" but "Disarmament with the authority and sanction of the parliament, or disarmament without it". Since the proclamation of 14th August 1871, the governor's functions as High Commissioner had ceased in Basutoland; consequently all executive acts were the work of the governor and his advisers, responsible to the legislature "whose servants they are". Because of the peculiar circumstances in Basutoland, the government should have consulted parliament, instead of proclaiming the Peace Preservation Act in spite of the Governor's Agent's warning, ³⁷ by "a sort of coup d'état". The government's policy had failed because it drew "a hard distinction of colour and race everywhere".

³⁵ It lasted nine days. By this time all the members opposed to Sprigg had met and chosen Scanlen, the member for Cradock, as their parliamentary leader; Hofmeyr declined the role.
[J.H.Hofmeyr, "The Life of Jan Hendrik Hofmeyr".]

³⁶ Cape Argus, 21 May 1880.

³⁷ See 25 June 1880 (C2755, p.12).

Sauer argued ³⁸ that if the government felt an emergency existed in Basutoland it should have proclaimed the Peace Preservation Act at once instead of having Griffith issue his circular making disarmament a test of loyalty. Hofmeyr observed the disarmament of the Basuto could not have been an emergency if it had been delayed until just prior to the parliamentary session; the government's action had only reinforced the waning power of the chiefs.³⁹ Saul Solomon arraigned the government's policy as "injustice tempered by fear.... there was.... in this instance no emergency which could justify you in acting as you have acted without consulting this House.... Now I hope the Colonial Secretary will be prepared to show that there was an emergency". The House's quarrel, he said, was not with the Act but the government's interpretation of it. Knowing disarmament was a thorny question, the Colonial Secretary should have waited to consult parliament, whereas when the Basuto asked for time to petition parliament and the Queen the government had discouraged this constitutional attempt to be heard.⁴⁰

Sprigg, replying to this attack in an "able and clever address"⁴¹ noted that while the ostensible issue had been the government's constitutional right to enforce the Disarmament Act in Basutoland, the debate had actually turned into an attack on the ministry's native policy. Referring to the Peace Preservation Act, he explained that under Clause 1 the Governor and Executive Council could proclaim any district in which it was unlawful for persons to carry arms without permission; because Basutoland was a part of the Colony, this part of the act was therefore permissive. Clause 14 - compulsory compensation - was mandatory; and Clause 19 provided for costs, out of

³⁸ Sauer, according to Sprigg (letter to Griffith, 13 Feb. 1880, Native Affairs Department 279) was "responsible for much of the opposition shown in Basutoland to Disarmament".

³⁹ The Boeren Beschermings Vereeniging, of which Hofmeyr was the leader, disliked the Peace Preservation Act mainly because they did not consider it could be peaceably enforced.

⁴⁰ The deputation dined on May 15th with Saul Solomon, several members of the House joining the party (Cape Argus, 17 May 1880).

⁴¹ Cape Argus, 3 June 1880.

such monies as parliament would vote for the purpose. In the previous session parliament had agreed to the application of the Act, agreeing with Sprigg's continual assertion that the Peace Preservation Act was a Disarming Act, introduced to prevent the natives rising against the government. To say the government should use it only in an emergency was to misunderstand the purpose of the Act. The outbreak of the Zulu War and Morosi's rebellion had delayed the immediate proclamation of the Act in Basutoland; and the final decision on a date just before parliament met was motivated not by a disrespect for parliament, but by the difficulties arising from missionary opposition.⁴² The Opposition made disarmament look like the sole facet of government policy in Basutoland, whereas it was proposed, for example, to spend £7,000 on education, £6,500 on public works and £5,000 on roads and bridges.⁴³

Sprigg had changed his ground since the previous session. The debates on the Peace Preservation Act in 1878 and the debate on Basutoland in 1879, clearly indicate that the majority of the House from the first regarded the application of the Disarmament Act, especially in its relevance to Basutoland, as a permissive measure to be handled very gingerly, not as a "hard, unrelenting, indiscriminating"⁴⁴ law to be applied by the government without reference to a legislature which had to vote supplies for the policy.

Sprigg's testimony of unequivocal support from Griffith is not wholly reliable for it ignores Griffith's overriding stipulation that disarmament could be achieved only by adequate support for those implementing it.⁴⁵

⁴² He described Mabile's refusal to translate as childish and designed to put the government in a spot.

⁴³ Compare 1879 where proposed expenditure was £808 on roads and £2,000 on public works.

⁴⁴ Fuller. House of Assembly debate, May-June 1880.

⁴⁵ See Griffith to Sprigg, 14 July 1880 below.

In a later debate the Colonial Secretary claimed Griffith had told him verbally "dozens of times" that disarmament was possible.⁴⁶ But Hofmeyr⁴⁷ accused Sprigg publicly not only of omitting whole passages from Griffith's letters printed in the Blue Books, without indicating such omissions, but also of altering the consecutive numbering of paragraphs to hide the omission which made his published testimony highly suspect.

Sprigg won the division by a mere nine votes. This was a Pyrrhic victory, for the government was faced not only with a large opposition but also with the inevitable fact of now having to implement disarmament in Basutoland. This they intended to do on the principle of ample compensation and a liberal grant of licences.

These concessions represented a change in Frere-Sprigg policy. For the first time Frere began to have serious misgivings about disarming the Basuto; Disarmament, he now wrote to Kimberley, again Secretary of State for Colonies,⁴⁸ was a serious measure only justified by the possibly worse consequences of not disarming. Behind these misgivings lay the realisation that the new government was resolved to continue its predecessors' policy of non-intervention by British troops.⁴⁹ Unknown to Frere and his ministers, Sir Garnet Wolseley had already written to Hicks Beach on 10th March⁵⁰ pointing out that to disarm the Basuto was not only unjust but inexpedient.

⁴⁶ Cape Argus, 20 Apr. 1881.

⁴⁷ Cape Argus, 3 June 1881.

⁴⁸ Under the newly elected Liberal government (30 May) which had come into power largely on denunciation of Disraeli's foreign policy in South Africa (Cambridge 8 - p.493). "When he [i.e. Kimberley] was Secretary for Ireland in the former Administration", Sprigg wrote to Griffith (9 Mar.1880. Native Affairs Department 279) "he carried out the Peace Preservation Act in that country indiscriminately.... and never paid a sixpence of compensation".

⁴⁹ See Hicks Beach, 30 Mar.1880 above.

⁵⁰ G2569. pp.36-7. Wolseley had been appointed High Commissioner for S.E.Africa with supreme civil and military control over Natal and the Transvaal. This gave him the right to advise on whether British troops should be allowed to be used in Basutoland. There were still a small number of British troops at the Cape, over whom he presumably had control.

"The selection of a time such as the present, at the conclusion of a series of wars, during which they have proved faithful to us, would be most impolitic". Wolseley was aware that the Colony's military forces were inadequate for dealing with a crisis and this would involve British forces. Consequently, he concluded the Cape government should not be allowed to risk disarmament without Her Majesty's ministers concurring.

A copy of Wolseley's despatch, remarkably, was not sent to Frere; thus he and his ministers were unaware of its existence until Command Paper C2569, in which it was printed, reached South Africa on July 3rd. The new Liberal ministry, however, knew of this important paper. Soon after he took office Kimberley like Hicks Beach⁵¹ advised caution and warned Frere that the colonial government should not look to Britain for help in an emergency. Throughout the disarmament crisis, the British government, irrespective of the party in power, was torn between a reluctance to interfere with a "Responsible" colony and the fear that this Colony might provoke a large-scale native uprising, particularly as Basuto territory touched at points on territory where "Imperial responsibility is admitted".⁵²

As the snowy winds blew down from the Malutis Griffith hesitantly started organising the administration of the law. On Sprigg's instructions, and as a test of loyalty, he was to recommend the granting of licences to 10% of all those who surrendered their guns;⁵³ for the sake of morale, Europeans were also to surrender their guns, applying for licences "which will of course be granted".⁵⁴ A notice

⁵¹ 13 May 1880 (Cape Argus, 16 Aug.1880).

⁵² Pall Mall gazette. (Quoted by Cape Argus, 16 Aug.1880).

⁵³ Premier to Governor's Agent, 12 June (A22-81). The Standard Bank was advised to have £10,000 in gold and £1,000 in silver at Aliwal North to be used for compensation. (Standard Bank Records. 18 June 1880).

⁵⁴ Premier to Governor's Agent, June 20 (A22-81).

to the people was issued over Letsie's name, announcing the refusal of the Basuto plea by the Queen, explaining that disarmament was intended as a policy of peace for all Her Majesty's subjects and ordering the Basuto to surrender their guns by June 21st.⁵⁵

The issue of Letsie's notice marked a deterioration in Basuto-land affairs, for Masupha (supported by several of Letsie's sons) now openly took the lead in opposing the chief, publicly accusing him of betraying the tribe "by inculcating obedience before the return from Cape Town of the deputation".⁵⁶ Tribal loyalty bent under a dual attack; for not only were the sons and full collateral relatives of Letsie now estranged from the old chief and each other, but throughout all strata of Basuto society those who had obeyed the law were alienated from those who defied it and disarmament left those who were law-abiding helpless and exposed. The Christians were particularly affected⁵⁷ for they either had to obey as the missionaries had exhorted them to do and be turned against their own families; or be "carried away by their national feelings" and suffer destruction of their property at the hands of colonial troops.

With appreciable anxiety the traders began planning to move their goods and abandon their stations, an action which Griffith feared might lead to panic,⁵⁸ and which he hoped to prevent by raising a protective force of 200 Europeans. From the unruffled environs of Government House came Sprigg's chilly reply. The government would not promise to compensate the traders for possible losses; no arms would be sent without "evidence of the probability of a disturbance"; and where did Griffith propose to raise his force of 200 Europeans? ⁵⁹

55 Governor's Agent to Colonial Secretary, 16 June 1880 (A22-81).

56 Frere to Kimberley. 29 June 1880 (G2755, p.9). Half the deputation, including Cochet had not left for Basutoland.

57 Memorial to Her Majesty's Ministers by the committee of the Paris Evangelical Alliance. (G2821, p.103).

58 Governor's Agent to Colonial Secretary, June 28 (No.285)(A22-81). He himself had, until this stage, still kept his wife and children with him.

59 Colonial Secretary to Governor's Agent, 30 June (A22-81).

Cause for panic was not wanting. From Mohale's Hoek Surmon reported the insolent behaviour of a headman;⁶⁰ a native school-master told the Rev. Kohler that he believed every white man in the country would be murdered when the deputation reported to the Chiefs. "I am afraid", wrote Griffith to the Secretary for Native Affairs,⁶¹ "the chief Letsie has neither the energy or the power over his people to grapple successfully with the present state of affairs, and I am very apprehensive that he may be driven into the vortex of disloyalty and discontent which at present exists in this country in consequence of the enforcement of the disarmament policy".

Unfortunately the ailing Molapo, who had supported Letsie, died at this juncture,⁶² leaving his heir, the insipid Jonathan, with instructions to surrender his arms. While Jonathan obeyed (and was soon followed by George, Sofonia and the Hlubi chief Tukunya)⁶³ a large section of his followers, under his brother Joel, defected to Masupha⁶⁴ thus starting the break-up of the political structure in the Leribe, which was to make the re-establishment of colonial rule impossible in Basutoland.

From the Berea down to Quthing a "wave of disloyalty and discontent"⁶⁵ swept across Basutoland. Major Bell and Surmon urgently appealed for arms. And Griffith, left with Sprigg's brusque refusal of June 30th voiced a moderate protest, which was for him a cri de coeur. "I can only express my very great regret that the government should have so little confidence in me..."⁶⁶

⁶⁰ Griffith to Secretary for Native Affairs, 30 June (A29-81).

⁶¹ 29 June (A29-81). See also Griffith to Secretary for Native Affairs (28 June 1880. Native Affairs Department 277).

⁶² Governor's Agent to Colonial Secretary, 30 June (A22-81).

⁶³ Brownlee, op.cit. Tukunya was a cousin of Langalibalele, and his clan lived in Basutoland. His loyalty was awarded by his being "eaten up" by Bereng (Governor's Agent to Colonial Secretary, July 21 (A22-81))

⁶⁴ C.H.Bell's report. 10 Jan.1881 (C3112, p.112).

⁶⁵ Griffith to Secretary for Native Affairs, 7 July 1880 (A29-81).

⁶⁶ Governor's Agent to Secretary for Native Affairs, 6 July 1880 (Ibid)

The breakdown in the disarmament policy was apparent even to the most sanguine observer. Frere pinned the responsibility for its failure on Griffith.⁶⁷ Bell's request for arms, he maintained, showed that the Basutoland Police had been inadequately armed, a fact not previously revealed by Griffith to the government. Griffith retaliated by bitterly accusing the government of failing to support its officers in carrying out a law "obnoxious to the people of this territory".⁶⁸ "The very worst feelings of the Basutos", he added, "have now been roused....The only plan will be for every European to clear out of the country while you are preparing a proper force to subdue these people and bring them to their senses...You must either make them obey the law or withdraw from the country....You say the govt [sic] sympathise with me...Sympathy wont assist you to protect the lives and property of the people around you".^{68a}

Letsie, it was clear to all save the government, was a broken reed,⁶⁹ ground between fear of the government and fear of his family⁷⁰. Masupha and Lerothodi now represented tribal authority, openly defying the magistrates' orders⁷¹ by forbidding people to bring in their guns, and attacking the Loyals.

⁶⁷ 19 July 1880 (G2755, pp.39-41).

⁶⁸ July 28 (Native Affairs Department 278). Surmon to Governor's Agent (July 11. Native Affairs Department 278) indicates the difficulties of the magistrates in having to strike a balance between the determination of the government and the need for giving confidence to traders and tribe.

^{68a} Semi-private letter to Sprigg. 14 July 1880 (Native Affairs Department 279).

⁶⁹ Governor's Agent to Premier. July 14 (A22-81). His own sons prevented his handing over his guns.

⁷⁰ He was terrified the arrival of a colonial force would result in Masupha being "sent to the sea" (13 Aug.1880. C2821, p.24). According to Cochet, Masupha himself feared he might be sent to Robben Island - as Langalibalele had been.

⁷¹ C.H.Bell to Governor's Agent, 13 July 1880. Masupha was threatening his people who gave up their guns, with death. Davies reported (July 18) that Bereng was doing the same in Thaba Bosiu. (A29-81).

Sprigg, though he did not "anticipate" disturbance, nevertheless began to investigate the possibility of moving the Cape Mounted Rifles nearer Basutoland as a precautionary measure.⁷² Frere, however, felt that a military move at this stage might "create great and mischievous excitement". He was pinning his faith on the influence of those of Letsie's sons who were now supporting him; and also on the return of the second part of the delegation, including 'Ntho, Letsie's most trusted councillor.⁷³

Towards the end of July open rebellion had all but broken out.⁷⁴ Several well-known traders fearful for their future, and angered by the government's refusal to promise compensation for losses in case of war,⁷⁵ abandoned their stations and sent their property away in spite of the government's disapproval; others evacuated their families. By the 19th July most of the terrified inhabitants of Maseru had abandoned their village, following reports from all districts that the egregious Bereng Letsie was "eating up" those who had surrendered their guns.⁷⁶ The European inhabitants and the few remaining Basuto placed Maseru in a state of siege, erecting grain sack fortifications to defend the more important buildings.⁷⁷

Sprigg finally decided to send 340 Cape Mounted Rifle officers and men from Queenstown⁷⁸ adjuring Griffith to hold on to the Residency as long as possible, falling back into the Free State only as a last resort. Meanwhile a horse post was to be organised between Maseru and Bloemfontein so as to keep the Cape government informed of developments.⁷⁹

72 Announced in Assembly Debate. (Cape Argus, July 8).

73 He had remained in Cape Town with the one half of the delegation to discuss Ruting. (Governor's Agent to Secretary for Native Affairs, July 14. Native Affairs Department 278). By mid-July they were back in Basutoland.

74 Charles C.H. Bell was forced to abandon Advance Post (Bell's report G20-81).

75 Surmon to Governor's Agent (11 July 1880. A29-81). Davies to Griffith (July 17. Ibid.)

76 Davies. Ibid.

77 Governor's Agent to Secretary for Native Affairs. 19 July (A29-81).

78 Sprigg to Governor's Agent. 20 July (A22-81).

79 Sprigg to Governor's Agent. 21 July. Ibid. This was done. (Brand to Governor. 26 July. C2755, p.44).

The Governor's Agent was plagued as much by Letsie's equivocation and hardening Basuto opposition to disarmament on the one side, as by Sprigg's continual indecision on the other. Having ordered the Cape Mounted Rifles to Basutoland, he queried the adequacy of their numbers and their effect if they entered the country. "Will it give confidence, or will the rebels then attack the Europeans".⁸⁰ Griffith⁸¹ believed that a force of about 3,000 troops in five or six columns, operating at different points, would be needed to suppress the rebellion. "If", he suggested surprisingly and with more enthusiasm than good sense, "you could get four or five thousand Natal Zulus, it would have a splendid effect..... they would be delighted to come and loot the Basuto cattle....." This was the counsel of despair. For from Thaba Bosiu came Barkly's news of an anticipated attack by Lerothodi⁸² on Mafeteng, which he was prepared to defend with a pitifully small force of eight Europeans and 16 native police and a few unarmed Loyals.⁸³ This report was sent, on Griffith's instructions, directly to Sprigg, a mistake which Griffith later paid for when Sprigg by-passed him and communicated directly with the magistrates. It did, however, result in an immediate supply of guns and arms from Aliwal North.⁸⁴ Surmon, too, at Mchale's Hoek was in dire straits with only a few native police for defence;⁸⁵ and Charles Bell reported from Berea, Masupha's systematic persecution of the Loyals "with a resolute assault upon their persons and property",⁸⁶ and the evacuation of all the traders in the district to the Orange Free State.⁸⁷

⁸⁰ Colonial Secretary to Governor's Agent, July 23 (A22-81).

⁸¹ 26 July (A22-81).

⁸² Mrs. Barkly and the children were sent to Hepener. (Frere to Kimberley 27 July 1880 (C2755, p.42).

⁸³ To Colonial Secretary, July 24 (C2755, p.43).

⁸⁴ Civil Commissioner at Aliwal North to Colonial Secretary 25 July (C2755, p.43).

⁸⁵ To Colonial Secretary July 25 (C2755, p.446). He optimistically hoped to raise 30 European volunteers at 6/- p.d. though where they were to come from is not clear.

⁸⁶ Bell to Governor's Agent, 28 July (A29-81).

⁸⁷ Governor's Agent to Colonial Secretary, 27 July (A22-81).

It was small comfort for Griffith to get Sprigg's airy instructions to let the Basuto fight matters out among themselves, while the administration did no more than support the Loyals and capture Lerethedi and Masupha at all costs. The Orange Free State's action in driving back the Loyals' cattle after having agreed to let them graze,⁸⁸ both confirmed the Loyals' belief that the government could not protect them, and encouraged the rebels to think they were being supported by the Free State. All the officials in Basutoland agreed with Barkly's conclusion that "energetic action on the part of the Government might,.... stamp out the rebellion now before it gathers".⁸⁹ But still the government demurred. Until the end of July the struggle had been primarily an internecine one; on July 27 however, the looting of Brummage's shop and home at Korokoro⁹⁰ introduced a new factor - hostility to the Europeans who had lived among the Basuto for years. Unfortunately neither Sprigg nor Griffith kept their heads in the growing crisis weeks. The danger of an attack on Mafeteng receded after Moletsane's sons had refused to help Lerethedi, and Sprigg prevailed on Brand to allow the Loyals' cattle to remain in the Free State;⁹¹ both these events should have engendered in the administration a determination to uphold its agreed policy, by force majeure if necessary. Instead, while Griffith still waited for the promised arms and ammunition⁹² the government resolved at all costs to avoid "acting hastily"⁹³ and ordered the Cape Mounted Rifles to be at the ready, outside Basutoland, at Jackman's Drift.

⁸⁸ Brand to Governor, July 7 (C2755, p.61).

⁸⁹ Barkly to Governor's Agent, 25 July (A29-81).

⁹⁰ Governor's Agent to Secretary for Native Affairs, 4 Aug. (A29-81) enclosing a letter from a missionary describing the violence of the attack and the havoc created.

⁹¹ Colonial Secretary to Governor's Agent, July 29 (A22-81).

⁹² To Colonial Secretary, 30 July (Ibid.). The Colonial Secretary on 28 July (Ibid.) informed Griffith arms had been sent a fortnight before. On August 6 he was still waiting.

⁹³ Colonial Secretary to Governor's Agent. Ibid.

By the first week in August Barea, Thaba Bosiu and Cornet Spruit ⁹⁴ were in open rebellion and still the government refused to act hastily. "I cannot" Griffith complained ⁹⁵ "say much for the efficiency of your first line of defence, if they take a week to reach Aliwal and another week to get here". "You don't" he added, "seem to grasp the position up here, or I am sure there would be more vigour ⁹⁶ shown in supporting us. Our position is becoming a laughing stock to the whole country".

Griffith's mistake in allowing the magistrates to communicate directly with Sprigg was largely responsible for the government's inactivity and confusion. ⁹⁷ It was impossible to decide who was right ⁹⁸ - the Governor's Agent asking for troops immediately, Surmon saying on August 2nd the excitement in his district was over or Cochet advising that troops should be kept out of Basutoland. Griffith nevertheless stoutly maintained ⁹⁹ his previous attitude that the presence of troops would deter the rebels and encourage the Loyals. Sprigg's reply ¹⁰⁰ reveals a self-deception unsurpassed even in political circles; he had promised the Basuto not to provoke war and he would keep his promise and not send in troops unless the chiefs stirred up the people against the government. Those who obeyed the law must be protected, possibly without troops. ¹⁰¹

Though the Colonial Secretary might rightly state in parliament that apart from the proclamation of the Act no force had yet been used to ensure obedience, by that very act of proclamation the Sprigg

⁹⁴ Surmon to Governor's Agent (Aug. 8. A29-81).

⁹⁵ To Colonial Secretary. 2 Aug. (A22-81).

⁹⁶ The use of the word "vigour" may have been a side blow at Sprigg's vaunted policy. This "total want of energy" (F. Tyrrell to J. X. Merriman, 14 Dec. 1882. "Selections from the Correspondence of J. X. Merriman", Vol. 1) characterised the commencement of the war.

⁹⁷ It was a surprising action in view of Griffith's attitude on the dignity of his position as senior officer. (See Governor's Agent to Secretary of Native Affairs, 10 March 1881. Native Affairs Department 279).

⁹⁸ To Governor's Agent (4 August. A22-81).

⁹⁹ 10 Aug. (A29-81). His letter to Letsie (11 Aug. Native Affairs Department 278) indicates his equivocal position for he informed the chief that government did not want to bring in troops if Letsie was able and willing to do his duty.

¹⁰⁰ 5 Aug. (A22-81). He was probably referring to his promise not to use force made at the 1879 Pitso.

¹⁰¹ This can only be a reference to the native militia which the government proposed to establish (Under Sec. for Native Affairs to Governor's Agent, 15th July (A22-81)).

Ministry had crossed its Rubicon. The peace of Basutoland, indeed, no longer depended on keeping the Cape Mounted Rifles out, but on the government's bringing them in as fast as possible both to show the rebels, that the administration still firmly held the reins;¹⁰² and to protect the Loyals who were being "eaten up" by Lerothodi, Bereng and Maama¹⁰³ Griffith, to ensure this, advised¹⁰⁴ that large forces be assembled at Maseru, Mochales Hoek, Mafeteng and Advance Post to enforce the law and prevent further bloodshed.

This was clearly not the government's intention. At the end of July the House was still not asked to vote any additional amount for Basutoland expenditure, Sprigg promising that the government would not send forces into that territory.¹⁰⁵ So the Cape Mounted Rifles lingered in the Free State, prepared to move only if Griffith indicated that Maseru would be positively endangered without their help.

With conditions at breaking point, hope still existed, that with "tact and prudence on the part of the Colonial government possibly a war may be averted."¹⁰⁶ Sprigg, however, clung determinedly to the disarmament policy on which he had come to power, though his hold on the House was becoming increasingly weaker. On July 24th a vote of No Confidence in the government introduced by Merriman was lost by only 4 votes, excluding the Ministers' own votes. The "big guns" of the House - Molteno, Merriman, Sauer, Solomon and Scanlen, all voted against the government.

The determination with which the Frere-Sprigg combination was now obliged to uphold its policy in the face of all opposition, is evident in Frere's reply to Wolseley's despatch of 10th March,

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- ¹⁰² "Events", the Cape Argus (July 30) trumpeted "have justified our contention that the Policy of Peace Preservation so-called was imprudent to a degree and events will justify our prediction that the government is as feeble and vacillating in action as it has been headstrong and heedless in counsel".
- ¹⁰³ The sons of Letsie.
- ¹⁰⁴ To Secretary for Native Affairs (18 Aug. Native Affairs Department 278).
- ¹⁰⁵ Cape Argus, July 29, 1880.
- ¹⁰⁶ Standard Bank report 30 July 1880 (Records of Standard Bank).

following its delayed arrival in South Africa in July.¹⁰⁷ Sir Garnet's views were no different from those of the parliamentary opposition or the press and had been answered by the ministry. Even had they been known earlier they would not have altered the views of Frere's Responsible administration; coming from so distinguished an officer as Sir Garnet they might now embarrass the government but not alter its opinion. In deciding that the dangers of disarmament were less formidable than those of allowing a semi-civilised population to remain fully armed, the government was supported by the highest authorities in Great Britain and India.¹⁰⁸ His Ministers' resolution was more in accordance with common sense and the instinct of self preservation than the opinions of Wolseley "who has certainly seen less of the country to be kept in order than the Colonial Ministers"; in 1878 for instance, when Frere had called for Sprigg to form a government, the latter had been "in laager" on his own farm. In Kaffraria, Frere explained, disarmament since 1878, had had the results expected by the Ministry.¹⁰⁹ In Basutoland, however, where the population was so heavily armed, obedience to the law depended not on compliance with the orders of Letsie, Griffith or his magistrates, but on "the caprice of a few young chiefs, and on their ideas of what is compatible with their own dignity and agreeable to their own feelings". While Wolseley might be right in implying it was better to submit than correct such a situation, Frere's ministers felt such conditions were not conducive to peace, and that order must be restored by colonial forces - alone if necessary.

¹⁰⁷ Frere to Kimberley July 26 (C2755, p.46). He quite correctly complained it had not been sent to him and that the first time he and his ministers had seen it was in C2569. Frere's attitude may have been influenced by the personal animosity existing between him and the new High Commissioner. (See Lehman, "The model major-general; a biography of Field Marshal Lord Wolseley").

¹⁰⁸ Frere, with his Indian background, was actuated by his fear of an Indian Mutiny situation in South Africa.

¹⁰⁹ Hardly a fair argument considering it had been imposed on the most tractable tribes.

To re-inforce order in a situation of widespread unrest,¹¹⁰ Sprigg decided to visit Basutoland personally. The basis of negotiation with the rebels was to be absolute obedience to the law indicated by the complete surrender of all guns as a proof of good faith;^{110a} after this initial step the government was prepared to deal leniently with those "led astray by mischievous and designing men..."¹¹¹

Masupha refused to surrender then and at any later stage.¹¹² Griffith believed force was the answer to this threat; the government, however, continued to pin its hopes on the unreliable paramount.¹¹³

The key to the situation was, in fact, Letsie's heir Lerothodi a man of great physical strength "brave amongst the brave"¹¹⁴ "and not wanting either in intelligence or in firmness",¹¹⁵ sincere where his father was ambiguous, determined where Letsie was indecisive.¹¹⁶ At this stage however, Lerothodi was only just beginning to perceive the disastrous possibilities of his uncle's resistance to the constituted authority. While still opposed to disarmament he professed himself willing to return the Loyals' cattle¹¹⁷ and made an effort to end the disaffection in Cornet Spruit

¹¹⁰ Nearly a dozen chiefs apart from the leaders, Masupha and Lerothodi, were now defying the law. (Governor's Agent to Secretary for Native Affairs. Aug.18. C2821, p.19).

^{110a} Sprigg to Governor (Aug.15. C2755, p.128).

¹¹¹ Secretary for Native Affairs to Griffith, 13 Aug. (C2755, p.113).

¹¹² Donald Fraser a trader of Mafeteng whom Sprigg consulted, rightly said Masupha would never surrender and disarm. (Barkly to Colonial Secretary, 11 Aug. (C2755, p.112)

¹¹³ Ellenberger later blamed Letsie for turning the crisis into a full scale war by his vacillations.

¹¹⁴ Merriman in House of Assembly. (Cape Argus, 13 Apr.1882).

¹¹⁵ Bryce, p.323. His impressions date from 1895-6.

¹¹⁶ Acting Governor's Agent to Secretary for Native Affairs, 13 Dec. 1881 (C3112, p.119).

¹¹⁷ Frere to Kimberley, Aug.24 (C2755, p.114).

by withdrawing his armed bands.¹¹⁸ It was too soon for the government to trust his sincerity; nevertheless it was on Lerothodi's instructions that Sprigg crossed the border, unharmed.

On the 26th August, Sprigg met Letsie at Morija, the Rev. Mabile's station.¹¹⁹ Tsekelo, Sofonia and George were interviewed some days later.¹²⁰ Merriman later wrote derisively of these meetings¹²¹: "We were treated to the spectacle of the chief minister of this colony meeting open resistance to law by palaver, and imploring the assistance of some of the very individual chiefs whom he had been foremost in condemning and scoffing at...." George, one of Griffith's chief informants¹²² recommended the use of troops to restore the government's prestige lost as a result of its indecisive actions. While critical of the Disarmament Act,¹²³ he nevertheless believed the rebels should never have disobeyed the law, and recommended that they be captured and punished by the magistrates according to the existing law [*my italics*]. George's evidence is very important. While he did not promise Sprigg there would be no opposition to the colonial forces, he realised it would come only from a hard core who disliked any constituted authority.

On September 3rd Letsie wrote to Griffith from his village Ha Rakhuiti¹²⁴ reporting on the Pitso called to ascertain the tribe's opinion on disarmament, and begging Griffith "that the law respecting arms may be allowed to sleep while I may continue to persuade the people". Letsie's letter was brought from Rakhuiti by Orpen. The

¹¹⁸ Governor's Agent to Colonial Secretary, 15 Aug. (A22-81).

¹¹⁹ (A22-81).

¹²⁰ August 28th and August 30th (A22-81). Sprigg appears to have primarily wanted to know from the chiefs whether Cape troops would be welcomed by the Loyals.

¹²¹ "Selections from the Correspondence of J.X. Merriman", Vol.1, p.84.

¹²² This fact is apparent if one compares his evidence and Griffith's despatches.

¹²³ A22-81.

¹²⁴ A22-81.

latter's role in the ensuing negotiations is curious. Always regarded as the Basuto champion¹²⁵ he now became the intermediary between Sprigg and the tribe while Griffith, the legitimate holder of that position, was ignored by all, except Letsie - an open indication of the lack of rapport between the Premier and the Governor's Agent.

Personal contact with the Loyal chiefs had made Sprigg aware that exact compliance with the letter of the law was impossible because so many people were afraid to bring in their guns. Consequently Letsie was told that the government would be satisfied if "some guns are now given up by Lerothodi and those chiefs who have been actually in arms against law and order" as a proof of their sincerity, the remaining guns being handed in when peace followed.

These terms, which were literally an amende for the Disarmament Proclamation, showed that Sprigg was prepared "to eat dirt in unlimited quantity".¹²⁶ Aware that their opponent was arguing from a position of weakness, and convinced that their own cause was "morally and materially strong"¹²⁷ Lerothodi and the rebel chiefs rejected Sprigg's terms¹²⁸. With their rejection Sprigg quitted Basutoland, convinced that Disarmament had exposed, not created the spirit of disaffection.¹²⁹

By the time he returned to Cape Town, Sir Bartle Frere had already departed in great haste,¹³⁰ leaving behind the ruins of his policy for the Premier to re-assemble with what "vigour" he could summon. Only the possibility of confederation had kept Frere at

¹²⁵ See his attitude to Nehemiah and the alienation of Morosi's land (above).

¹²⁶ Cape Argus, 14 Sept. 1880.

¹²⁷ Ibid.

¹²⁸ Cape Argus, Sept. 15.

¹²⁹ To Secretary of Native Affairs (Quoted in Sprigg to Officer administering government (December 8th. C2821, p.91).

¹³⁰ On September 15th. Until Strahan the Administrator of Government was sworn in on September 27th (C2755, p.153) Clifford acted as Administrator.

his post; and when that ghost was laid the divergence between Sir Bartle's and Her Majesty's government's views were too wide for further co-operation.¹³¹ Moreover the pressure exerted on Gladstone by a section of the Liberal party hastened Frere's departure.

"No more imprudent thing at a more imprudent time could have been suggested," Joseph Chamberlain argued in the House of Commons,¹³² "than the disarmament of the loyal Basutos....the government disagreed with the policy he had pursued on the grounds alike of expediency and justice so that the situation might be said to have become intolerable".

In South Africa, someone once said, it was easier "for a statesman to extinguish himself than to distinguish himself",¹³³ and Frere was no exception.

After his removal from office he attempted to answer the charges against his South African administration of which only the Basuto imbroglio is relevant to this study. Frere claimed,¹³⁴ that after the suppression of Morosi's rebellion, it was agreed the smaller clans who had not rebelled should keep the lands they had "enjoyed under Morosi". Frere's opponents denied this saying Frere had intended removing these clans, and appropriating the land;¹³⁵ and only the government's awareness that a Bill to give effect to this proposal would be defeated, had delayed further action.

Frere dissociated himself from the "vigour" policy of disarmament,¹³⁶ maintaining he could not have withheld assent to the Peace Preservation Proclamation without instructions from Her Majesty's government. This defence, and his assertion that the

¹³¹ Martineau. Op.cit. Vol.II, p.395 et seq.

¹³² Debate on the Transvaal. August 31 (C2821, pp.90-91).

¹³³ Grant Duff in House of Commons, 21 Jan.1881 (Cape Argus, Feb.15).

¹³⁴ Cape Argus, 26 Jan.1881.

¹³⁵ This argument seems to have a foundation of truth, as after the war the government announced the land was being surveyed. See above.

¹³⁶ Though Tsekelo, speaking at a Pitso, 29 Aug.1881 (C26-82) referred to him and Sprigg as "the two who used to pull together", which indicates how they were regarded by the Basuto.

Cape ministry, by providing for the issue of licences had made Peace Preservation an act for registering arms rather than a disarming measure, can be dismissed as classic examples of suppressio veri.

When Frere signed the Proclamation, the newly elected Liberal government could easily have been advised by the Governor to refuse assent, particularly as the previous government had also expressed concern over disarmament. As for the argument that it was a measure for registering arms, it is obvious from the Assembly debates that the government got Disarmament through parliament as a permissive measure, to be used, it was assumed, only when a district was "in a disturbed condition and within which there are certain individuals who ought not to be entrusted with the possession of arms";¹³⁷ and that having done so, proceeded to use Peace Preservation as a mandatory measure against all natives, whether they were disaffected or not.¹³⁸

Though Disarmament is the distinctive mark of the Frere-Sprigg partnership, it would be unfair to regard it as the complete picture. For the crisis in Basutoland turned Sir Bartle's thoughts to the administrative and legal systems under which the native tribes falling within the Cape's jurisdiction, were governed. Arising out of Griffith's recent despatches Frere admitted that certain issues - the police, appeal to colonial courts -¹³⁹ required closer attention.¹⁴⁰

The land tenure system particularly needed overhauling. The Assembly's opinions on suitable land distribution varied from belief in absolute ownership by the chief, to extensive tribal and communal

¹³⁷ Cape Argus, 18 May 1878.

¹³⁸ Vide its implementation among the Fingoes, to whom the epithet "loyal" was inevitably applied.

¹³⁹ See Proclamation 51 of 1871, above.

¹⁴⁰ C2755, pp.40-41.

rights. At a higher level, the Cape government's interpretation of Wodehouse's alleged pledges to Moshoeshoe of "Basutoland for the Basuto" differed materially from the Imperial government's;¹⁴¹ Frere's proclamation of 12th April 1880¹⁴² had allowed traders in the government reserves around the magistracies to obtain a quit-rent grant of one or two morgen; the question to be settled was, had the Cape government the right to grant such land?

To overhaul the regulations under which Basutoland was governed, Frere suggested the appointment of a Commission to make recommendations on matters about which Parliament would sooner or later have to legislate; in addition the Commission could "record much which is at present oral and traditionary, regarding which Colonel Griffith's successor will be at fault when Colonel Griffith is not at hand to be referred to".

"The work" Frere wrote, "will be the more important because what is done in Basutoland will probably, if successful, afford an example to be followed in other parts of Eastern Kaffirland".¹⁴³ He spoke more prophetically than he ever knew. For out of Frere's suggestion was born the famous Commission on Native Laws and Customs.¹⁴⁴ Its terms of reference covered the investigation of native laws and customs dealing with marriage, property, land tenure and so on in the territories annexed to the colony, with a view to suggesting a code of civil and criminal law suited to the existing conditions to these territories, as well as the advisability of introducing some measure of local self government. Unfortunately, by the time a new Penal code was drafted for the native dependencies, based on Cape criminal law, Basutoland had passed into other hands.

¹⁴¹ See Kimberley to Frere, 20 May 1880 (A38-80) above.

¹⁴² G4-83.

¹⁴³ C2755, p.41.

¹⁴⁴ Report published in G4-83 in January 1883. Its members, appointed on 15 Sept. 1880 under Frere's Commission, were J.B. Barry as President, W.B. Chalmers, James Stewart and J. Ayliff. All the best known native administrators such as Brownlee, Elliot, Rolland, Orpen and others gave evidence.

CHAPTER VII

The Basuto rebellion became a full scale war on Monday, 13 September 1880, when Lerothodi and several hundred rebels attacked a Cape Mounted Rifle column under Colonel Carrington, near Mafeteng and were completely routed.¹

The Imperial government immediately made clear its intention not to become involved militarily. Sir Mountstuart Grant Duff, the Under Secretary of State for the Colonies, made "ostentatious declarations" ² in the Commons that Imperial troops should be used neither to help the Cape government enforce its policy nor to recoup it from the effects of such policy, and Sir George Colley, Wolseley's successor, was informed that no Imperial officers were to be put at the Cape's disposal.³

Consequently Sprigg was forced to tell the Administrator ⁴ that his own government would quell the rebellion unaided, providing it was left alone to deal with the ultimate settlement. At the same time he criticised ⁵ the Home Government for the encouragement its attitude of conspicuous non-intervention gave to the rebels.

Sprigg had little cause for confidence at this stage. Clifford felt it had been a mistake to send such a small body of the Cape Mounted Rifles into Basutoland as the Colonial forces were "unprepared to take the field yet".⁶ "Knowing how numerous the Basutos are, and how the colony will be left to settle the matter without the aid of Imperial troops", the Standard Bank Manager reported,⁷

¹ Colonial Secretary to Secretary for Native Affairs, 15 Sept. (C2755, p.170) and also Cape Argus, Sept.16. The Cape Mounted Rifles had entered Basutoland on Sept.6 and occupied entrenched positions commanding Maseru. (Cape Argus, Sept.8).

² Sprigg to Officer Administering Government, Dec.8 (C2821, p.91).

³ Kimberley to Colley, Sept.29 (C2755, p.153).

⁴ Sept.20 (Ibid. p.184).

⁵ Sprigg to Administrator, Sept.20 (C2755, p.184).

⁶ To Kimberley, Sept.20 (C2755, p.169).

⁷ Records of Standard Bank, 17 Sept.

"and remembering how long the war between the Free State and the Basutos lasted some fifteen years ago, it is not too much to believe that a war now will be a tedious one, and will bring great distress upon the colony". The first call, therefore, on the government was immediately to put a large force into the field. The Commandant-General's initial request⁸ was for 2,000 Europeans. 700 Cape Mounted Rifles were called up including those in east Griqualand and the Transkei (which drained these areas of their front-line defence). The remainder was made up by the call-up of the Volunteer Corps and Yeomanry, for an unspecified period.⁹

On September 20th, Clifford reported to Kimberley¹⁰ that the Cape Mounted Rifles had been mobilised and that he had rejected a full call-up as too expensive and potentially injurious to trade, recommending instead that only "volunteers" from the Volunteer Corps should be called to serve for six months. Those called up first under Section 7 of the Volunteer Act and Proclamation 98 of 1879 were the Duke of Edinburgh's Own Volunteer Rifles, the Stockenström Rifle Volunteers and the 1st City, Grahamstown.¹¹ The Prince Alfred Volunteer Guard¹² were added to the call-up and on 22nd and 23rd September the ballot for the "Dukes" and Volunteers was held before an unenthusiastic crowd. From Aliwal North trumpeted the voice of "vigour"¹³. "...If the colonists have any patriotism they should answer the call with alacrity"; but patriotism was lacking in a colony singularly apathetic about the war.

8 To Acting Under Colonial Secretary, Sept.15 (C2755, p.167).

9 (C2755, pp.172 ff.) After the 9th Kafir War, Sprigg had reorganised the Cape forces. The Cape Mounted Rifles was a permanent force to replace the Frontier Armed and Mounted Police; and provision was made for raising yeomanry and volunteers and if necessary a conscript burgher force [Davenport, The Afrikaaner Bond]

10 C2755, p.169.

11 Commandant General to Treasurer-General, Sept.20 (C2755). p. 172.

12 (C2755, p.178). The call-up was - Officers:

18	<u>Men:</u>	300	DROVG
7		200	PAVG
4		70	1st City
2		50	Stocken-
			strom.

¹³ Sprigg to Secretary for Native Affairs, Sept.20 (C2755, p.173).

By the end of September what seemed on paper a fairly strong force was in, or on its way to Basutoland.¹⁴ The right wing of the Cape Mounted Rifles comprising 300 men was at Maseru under Colonel Bayly; 250 of the left wing were stationed at Mafeteng under Carrington; Surmon had twelve white men and eighty natives at Mchale's Hoek, Austen in Quthing commanded about 100 Loyals, native police, Baphutis and Thembu, and with Hook at Herschel were his 200 Fingo levies. About 300 Cape Mounted Rifles, Volunteers and Yeomanry under Capt. Grant were on their way to relieve Surmon, with a further 600 Yeomanry and 700 Volunteers also proceeding to Basutoland; Schernbrucker was in command of the Loyals.¹⁵ The only reserves, however, were the Burghers, a useless military force, whose members were unwilling to leave home.

Consequently mercenary forces were raised. While Colley and Lanyon were agreeable to mercenaries enlisting in Natal and the Transvaal respectively,¹⁶ Brand, abiding by his attitude of strict neutrality, refused, though he was prepared to allow mercenaries from other areas¹⁷ to go through the Free State. The mercenary response was inadequate; and on October 23rd commandos of the Burgher forces in several of the Cape Midland districts¹⁸ together with those of Malmesbury and Paarl were called out "for the suppression of rebellion in British Basutoland..."¹⁹

By December, Sprigg estimated²⁰ there were 18,000 men under arms, including the reluctant coloured levies, at an exorbitant cost

¹⁴ Memorandum from Ministers to Strahan, Sept.29 (C2755, p.188).

¹⁵ Cape Argus, Oct.11. He had "considerable knowledge" of natives having lived in British Kaffraria since 1865 (G4-83).

¹⁶ Lanyon asked (23 Oct., C2755, p.235) "will they be allowed to loot, for this is an important matter?" Willoughby in Natal and Ferreira in the Transvaal raised forces.

¹⁷ e.g. Diamond Fields Horse, Ferreira's. (Brand to Strahan, Nov.12. C2821, p.64).

¹⁸ Somerset East, Bedford, Fort Beaufort, Albert, Cradock, Middelburg, Colesburg and Murraysburg. They were called under Sec.17 of Act 7 of 1878.

¹⁹ Cape Argus, Oct.26.

²⁰ To officer Administering Govt. Dec.8,1880 (C2821, p.91). The Commandant General's report (Cape Argus, 31 March 1881) puts the total nearer 9,000.

to the colony for which the government was totally unprepared.²¹ The General Manager of the Standard Bank postponed forwarding £50,000 from Natal to London²² so as to keep the bank's position strong in case the government tried to raise a loan. Up to May 14, 1881, the war was to cost the colony £2,376,537.²³ The bank lent the Government £1,300,000, without security; though it may "have had some moments of anxiety the advance was duly repaid...."²⁴

A brief account of the Basuto war is sufficient for this study.²⁵ Following the initial engagement, by September 22nd the rebellion had "attained large dimensions".²⁶ with Tlali, the Thembu chief joining the rebels and trying to cross the Orange River.²⁷ On October 10th²⁸ the rebels were repulsed at Maseru with heavy losses, this success being followed by the relief of Mafeteng on October 19²⁹ and the capture of Lerethodi's village three days later.

The bravery of the Basuto though beaten in pitched battle, was fully acknowledged.³⁰ Subdued but not demoralised, they effectively resorted to guerilla tactics to harass small parties of Colonial forces, so that Clarke was forced to fall back on despised and unenthusiastic Burghers and the equally lukewarm coloured levies. By early November there was a stalemate in the Basuto war; the Basutos were well armed and could hold out indefinitely in the mountain fastnesses where no cavalryman could penetrate. The Cape

21 Standard Bank correspondence between Manager and London Office. (Standard Bank Reports).

22 Ibid. 17th Sept. It was due to leave that month. The bank offered £250,000 at 6%.

23 Treasurer General in House of Assembly (Cape Argus, May 17, 1881).

24 J.A. Henry and H.A. Siepmann ("The First Hundred Years of the Standard Bank" p.79).

25 For a vivid contemporary account see Germond, p.337 et seq.

26 Strahan to Kimberley 28 Sept. (C2755. page 153).

27 On Sept. 20 the Thembu rebels attacked Austen at Palmietfontein. (Cape Argus Sept. 25).

28 Enclosure No.1 in Strahan to Kimberley. Nov. 10 (C2755. pp. 269-75).

29 Strahan to Kimberley. Ibid.

30 Cape Argus 7 Mar. 1881. Also Germond p.343 "the rebels are fighting with the courage born of desperation..." One story probably apocryphal described how, when a Colonial band played "God Save the Queen" the enemy "being dutiful subjects of Her Majesty ceased firing". (Cape Argus. Dec. 6).

forces by comparison, were weakened by internal dissension.

Carrington's appointment had exposed the jealousies among the top officers in the Cape Mounted Rifles.³¹ The men were dissatisfied with commissariat arrangements, the shortage of fuel was serious, and the Colonial intelligence useless.³²

1881 opened with bad news. Austen, Resident Magistrate of Guthing was killed near Morosi's Mountain and his body decapitated.³³ In addition 500 Burghers, from Cradock, Somerset and Albert, abandoned Mafeteng. Relations with the rest of Carrington's forces had never been cordial; and the outbreak of the Transvaal war aroused the "smouldering antipathies" of soldiers who had not wanted to fight in the first place.³⁴ Meanwhile, as a result of collusion between the Basuto chiefs and the other tribes,³⁵ the Basuto unrest spilled over into the Transkei and East Griqualand, left almost undefended by the removal of the Cape Mounted Rifles.³⁶

Early in October 1880, Brownlee, Chief Magistrate of East Griqualand, had been attacked near Kokstad. On October 23rd Hamilton Hope, now the magistrate with Umhlonhlo, the Pondomise chief was treacherously killed on the chief's orders.³⁷ Already both sections of the Pondomise and the Matatiele Basuto were joining the "cause of their disaffected brethren in Basutoland.." ³⁸ and even the Cape border districts were reported to be in a "state of great excitement".³⁹

³¹ Cape Argus Nov.24 and Dec.10.

³² Account by Lt.Heath of Kimberley Horse, who was editor of the Diamond Fields "Independent". (Cape Argus 9 Dec.)

³³ Possibly this was a reprisal for the mutilation of Morosi's body (page 40 above). His head was sent to Letsie by the vassal chief who had killed him.

³⁴ Cape Argus, 2 Feb.1881. The Afrikaner Bond's attitude that Colonial forces should not be used in Basutoland (Davenport op.cit. p.165) probably influenced them too.

³⁵ Strahan to Kimberley (3Nov.1880. C2755, p.211).

³⁶ See above, p.90..

³⁷ Strahan to Kimberley Oct.24 (C2755. p.239). Also Colley's Report p.265.

³⁸ G.C.Strahan to Secretary of State for Colonies. 6 Oct.1880. (C2755. p.167).

³⁹ Strahan to Kimberley Nov.10 (C2755.p.287). For full details of unrest see Strahan to Kimberley, 26 and 29 Oct., Oct.5, Nov.2 in C2755.

Fortunately for the colony the extent of the unrest was exaggerated. While many of the tribes from the Umsinkulu to the Bashee were restive, no major concerted action followed against the Europeans in the Transkei and Pondoland. By January 1881 the situation had passed the moment of crisis,⁴⁰ mainly due to the courage of the magistrates - Stanford, Blyth, Elliot and Brownlee - in holding their positions with European volunteers. Later in the year the Gaikas and Fingoes showed positive solidarity with the government, by enlisting for service in Basutoland thus emphasising the final breakdown of Disarmament.

Other factors began to make their effect felt on the war. In the colony, apart from dissatisfaction over the conduct of hostilities, its deleterious effect on the Cape's economic progress, which had been feared almost from its inception was now apparent.⁴¹ Kimberley was particularly hard hit, the price of grain rising steeply⁴² and accompanied by a serious disruption of the labour force on the Diamond Fields. White men were employed at £5 per week to do work which usually cost £1 when done by a native.⁴³

By the beginning of February military operations were continuing solely in the Mafeteng area.⁴⁴ Austen's death and the Burgher mutiny had made the Basuto conscious of their strength.⁴⁵ Consequently the petition dated January 10th⁴⁶ sent by Lerothodi and Joel to Sir George Strahan, while suing for peace, requested the retention of both arms and country.

40 C2821. p.127.

41 Standard Bank records, 8 Oct.1880.

42 As Basutoland was the main source of its grain supply (Cape Argus 14 May 1881, and Dr.Matthews, Kimberley MP in House of Assembly. Cape Argus 15 Apr.1881).

43 Standard Bank report, 19 Aug.1881.

44 Cape Argus, 14 Feb.1881.

45 Sauer, in House of Assembly (Cape Argus Apr.6,1881).

46 Cape Argus (29 Jan.1881) and C2964, p.3. Sauer forwarded this petition.

Sir Hercules Robinson assumed the Cape governorship on January 22nd, 1881⁴⁷ with instructions from Kimberley as to Basutoland's future.⁴⁸ "If Colonial government should desire that an effort should be made to bring about a settlement through Imperial authority, and you should be satisfied that the Basutos would be willing to place themselves in the hands of Her Majesty's government, I should be ready to receive favourably any proposition for the appointment of a Commission to consider and recommend terms of settlement, or for the direct intervention of the Crown if that should appear preferable". Feeling the best chances for peace lay in his acting as umpire between the Basuto and the Cape government, Robinson ordered the Basuto rebels first to surrender their arms and put themselves in his hands so that he could use his influence "to obtain for them the most lenient terms consistent with the vindication of the authority of the law".⁴⁹

On February 19th Griffith sent Robinson the reply of Lerothodi and his fellow rebel chiefs,⁵⁰ declaring they would not submit until the actual peace terms were fully known. The Ministry, fearing public and parliamentary censure might result from their "not having embraced the opportunity to state the terms upon which those in rebellion could purchase peace"⁵¹ asked Robinson to announce the terms. Though still convinced that unconditional surrender alone would have been a better basis for procuring lenient terms,⁵² he agreed to the request as being the only fair argument with which the ministry could face parliament. In addition Robinson's offer

⁴⁷ Theal, "History of South Africa", Vol.II, p.192.

⁴⁸ Dated 30 Dec.1880 (Cape Argus, 29 Jan.1881).

⁴⁹ Governor to Governor's Agent (4 Feb. C2964, p.7).

⁵⁰ Governor's Agent to Governor. Feb. 19 (A44 - 81).

⁵¹ Robinson to Kimberley (Mar.5th. C2964. p.13).

⁵² He based this opinion on Griffith's statement that if the rebels were not thoroughly humbled it would be impossible for magistrates or Loyals to live with them. (Griffith to Governor. 10 Feb. A44-81)

had put him in an anomalous position vis a vis his Responsible cabinet, and the chiefs' reply rather "relieved me from the special and somewhat unconstitutional responsibility which would have devolved upon me if they had submitted unconditionally and placed themselves unreservedly in my hands".⁵³

On February 21st the Premier conveyed the government's terms to Griffith.⁵⁴ Firstly, because Basutoland was an integral part of the Cape, submission to Colonial law was a prerequisite of government. If the Basuto surrendered their arms immediately, the ministers would recommend that all the rebels be pardoned, save Lerethodi, Masupha and Joel, who would be tried but not executed. The Basuto would have to pay in cattle or money a share of the expenses of the rebellion. On the delicate question of land alienation only the land around the magistracies would be set apart; but the Sprigg ministry in its wisdom decided that Quthing was to be exempt from this decision, its future being dealt with by parliament.

The usual heavy summer rains had flooded the shallow streams of Basutoland and Lerethodi was unable immediately to meet and confer with his fellow rebels.⁵⁵ Meanwhile the British Colonial Office feeling the government's demands were too severe, asked for a modification.⁵⁶ The Sprigg government, however, remained adamant, convinced that these terms were the minimum needed to secure permanent peace.⁵⁷

The British government's attitude was particularly embarrassing to Sprigg and requires closer examination. While censure of Colonial ministries was permissible through the governor, in his role of both Crown representative and agent of the British government, Sprigg

⁵³ (Mar.5. C2964. p.12). He felt he might have had to change his ministers if they did not concur with his ideas of just terms.

⁵⁴ Premier to Governor's Agent (A44-81). Robinson telegraphed them to Kimberley on Feb.23.

⁵⁵ Governor's Agent to Premier 28 Feb.(A44-81).

⁵⁶ Kimberley to Governor, Feb.26 (A44-81).

⁵⁷ Governor to Kimberley, 28 Feb. (ibid.)

felt that the criticism of his government's terms, in the House of Commons, was both unconstitutional and a possible encouragement to the rebels.⁵⁸

As usual, the explanation for "perfidious Albion's" behaviour lay in balancing the reality of colonial policy against the demands of public opinion at home⁵⁹ and the political theories on which the government had come into power. While Kimberley had publicly announced his agreement with Robinson's initial proposal to act as arbiter, Her Majesty's government was anxious to repudiate any charges of sympathy with the new, more severe ultimatum. This was due, not only to the inherently pacific nature of Gladstonian Liberalism⁶⁰ but to the more particular influence which humanitarian movements like the Aborigines Protection Society and even the Paris Evangelical Society exerted on the Liberals.⁶¹ Kimberley's attitude was dictated further by Britain's policy of gradually withdrawing her troops from the colonies. While prepared to intervene peaceably, the Imperial Government balked at the possibility of her forces becoming involved in any struggle, particularly one of which she disapproved.

The root cause of the Home Government's behaviour was a feeling of responsibility toward the Basuto in view of the circumstances under which Basutoland had become British.⁶² Because the Basuto had never received formal notification of the change in their relation to the governor after responsible government, in Kimberley's view the governor's "actual powers in respect of Basutoland remained

58 A ridiculous objection in Kimberley's view, as the Sprigg terms had gone out to the rebels on 25th and Grant Duff only made his speech of criticism on 25th. (Kimberley to Governor, 6 Apr. (C2964 p.17). It was published in Cape Town on 27th, while expiration of armistice was 26th.

59 Grant Duff noted this in a House of Commons debate (Jan.21. Reported in Cape Argus Feb.15). Difficulty of the government was to keep a balance between colonists' and natives' rights.

60 As emphasised particularly in his Midlothian campaign.

61 See Mabile to Kimberley (27 Dec.1880 and 15 Jan.1881. C2821. pp.81, 129). Also Paris Evangelical Missionary Society's petition to Colonial Office, 9 Dec.1880, C2821, p.70.

62 Kimberley's instructions to Robinson (op.cit.)

technically unaltered".⁶³ This technicality consequently gave the British government a special relationship to the tribe, and because of this Kimberley was not prepared to surrender his right to participate in the final settlement.⁶⁴

The inconsistencies in this policy as far as the Cape was concerned, are not difficult to perceive; to Sprigg only military aid entitled Britain to a voice in the peace negotiations. Kimberley on the contrary, felt the Home Government could not give military help for the reasons already given. Yet because he feared the effect of a punitive post-war settlement, particularly the "extensive confiscation of land [in which] lay the seeds of future disturbance..."⁶⁵ he claimed, on behalf of the Imperial government and on a doubtful technicality, the final moderating say.

⁶³ Kimberley's instructions to Robinson (op.cit.)

⁶⁴ Kimberley had already informed Strahan (Sept. 30. C2755, p.154) that the British government would not commit themselves on the final settlement except to give "due weight" to the Colonial government's opinions.

⁶⁵ Kimberley's instructions to Robinson (op.cit.)

CHAPTER VIII

The severity of the Cape's proposed peace terms with an enemy unvanquished and still militant, was responsible for the protracted negotiations which began on February 18 and finally ended in the Governor's Award at the end of April. The latter, however, failed to restore a society whose traditional values had been negated by civil war.

By 28th February no reply had been received from the rebels¹ and reports from Basutoland claimed they were using the truce to reap their crops and strengthen their fortifications.² Robinson, though anxious to leave for the Transvaal by April 16th, was not prepared to jeopardise negotiations and insisted on suspension of hostilities as a prerequisite before he would arbitrate.³ Confidentially he disclosed to Griffith his conception of "just terms".⁴ These were disarmament of the tribe by the Governor's agent and his magistrates; the payment of a moderate fine determined by the Governor's Agent; a complete amnesty for the rebels, and no confiscation of any part of Basutoland. Robinson defended his terms⁵ as being identical to Sprigg's except that he had included the three leading rebels in the general amnesty. Sprigg's proposal to submit the Quthing confiscation to parliament was, in the Governor's opinion, tantamount to non-confiscation as a confiscation Act would be subject to Her Majesty's approval. Nevertheless he asked for Griffith's suggestions⁶ on modifications in the terms of a surrender, which would reconcile the Basuto to disarmament.

¹ Robinson to Kimberley, Mar.5,1881 (C2964, p.13).

² For confirmation of this rumour see Germond, p.353.

³ Governor to Governor's Agent, 12 Apr. (A44-81). He did not want the Basuto to accept his arbitration and then repudiate the Award, which would bring the British government in as one of the protagonists.

⁴ Governor to Governor's Agent, 8 Apr.(A44-81). Griffith thought them too generous.

⁵ Governor to Governor's Agent, 12 Apr. (A44-81).

⁶ 19 Apr. (A44-81).

Griffith's reply indicates his awareness both of the problems of governing a country, in a transitional state of political development, by methods ungrounded in that country's past, and of the danger of abandoning a policy once embarked upon. Unless unconditional surrender of arms (and nothing less) were enforced immediately,⁷ the government should withdraw from the country, for the magistrates would never again be able to enforce their rule unless a stand were made on this issue. His own terms of surrender were a general amnesty for all except those in government service who had deserted with arms;⁸ the restoration of the Loyals' property, and compensation to the traders; and a fine of 10,000 cattle to be levied on the tribe for rebelling. In the very last resort he was prepared to levy a tax of 20/- per year on every gun, but felt strongly that unconditional surrender of arms was the prerequisite for future peace. Thus while in 1879 Griffith had had his reservations about disarmament, in 1881 circumstances had made any other course impossible, even if it meant using "vigorous military operations".⁹

Ten days after Lerothodi's promise to disperse his people, the rebels still remained, inactive, in the field waiting for the colonial forces to withdraw¹⁰ and the government was faced with the choice either of insisting on dispersal prior to the Governor making his Award, or proceeding on the basis of Lerothodi's half-submissive attitude. Affairs in the Transvaal required Robinson's immediate attention. Consequently he was prepared to waive dispersal as an irrelevant issue so that the Governor's Award could be immediately announced.¹¹

⁷ To Governor, 20 Apr. (Ibid.)

⁸ He was referring to the chiefs and Members of the Basutoland police.

⁹ To Governor, 20 Apr. (A44-81).

¹⁰ Governor's Agent to Governor, 26 Apr. (Ibid.)

¹¹ Governor's Minute to Ministers, 27 April (A44-81). Compare this to his earlier demand for unconditional surrender.

Sprigg's concurrence was immediate;¹² his government agreed to abide by the Governor's definition of "just and generous" terms, "on the distinct understanding that the primary condition shall be a surrender of arms by the Basuto in terms of the Peace Preservation Act".

These negotiations with Lerothodi had taken place against a background of parliamentary disapproval of Sprigg's Basutoland policy which was to unseat the Government.¹³ In the No Confidence debate of the 1881 Session Seanlen attacked the Premier for embarking on a large scale venture without adequate financial provision while Orpen castigated him for not disclosing to the House Griffith's warning on the need for a force to implement disarmament. In its own diffuse way, Orpen's speech struck a knock-out blow against the Ministry, for it emphasised the illogicality of insisting on total disarmament at a time when the country was unsettled by the Moresi revolt. In a withering demolition of the Government's native policy, Merriman pointed out the inconsistency of Sprigg's use of Letsie, Tsekelo, George and the other chiefs after the public avowals of his intention to dispense with all chiefs. The new member for Barkly West, in the recently incorporated Griqualand West territory, also spoke in this debate, for the Basutoland rebellion had been felt noticeably in Kimberley. Rhodes likened disarmament to the greased cartridges of the Indian Mutiny - the immediate cause, though other underlying grievances existed, Like Solomon he favoured the Home Government's retention of control over native policy.

In the subsequent vote on railway and native policies the government was defeated by 37 votes to 34, the new Griqualand

¹² Minute from Ministers to His Excellency signed by Sprigg, 29th Apr. (Ibid.).

¹³ No Confidence debate (Cape Argus, Apr. 12 et seq.)

members voting against Sprigg on the railway issue. On May 6th the Colonial Premier's formal resignation was accepted.¹⁴ While Sprigg's ministry had adopted "vigour" as its watchword, the strategy of Scanlen, the new premier, was that of "a waiting policy"¹⁵ thanks mainly to the enormous difficulties he had inherited as Sprigg's successor particularly on the question of extra colonial territories.¹⁶

The last major act witnessed by the Sprigg ministry was the publication of the Robinson Award on April 29, 1881.¹⁷ Its terms were divided into three broad headings - disarmament, compensation by the tribe and a fine. The chiefs and people, the Award stated, must realise disarmament was still in force, though a liberal construction would be put on its provisions concerning licences for guns. All guns were to be surrendered and registered by the magistrates and could then be returned to the owner on payment of £1 yearly. Anyone who refused to pay this fee, or whose application for the return of his gun was refused by the magistrate would be paid its full appraised value - the valuers, named by the Governor's Agent, being the headman of the village, a trader and the magistrate. On the delicate question of compensation, Loyals, traders and the government were to have their property returned, and all damage made good. As a fine for rebelling, the tribe was to pay 5,000 head

¹⁴ Cape Argus, 7 May 1881. Hofmeyr's pressure and that of the Diamond Fields lobby hastened the resignation [Davenport].

¹⁵ Saul Solomon (Cape Argus, 16 May 1882).

¹⁶ The cabinet consisted of Scanlen as Attorney General; Merriman - Commissioner of Crown lands; and the "brains carrier" [Lewsen, footnote p.91] Sauer in the key post of Secretary for Native Affairs. Hutton as Treasurer General and Molteno in the inferior post of Colonial Secretary "an act of rare self-abnegation". (Cape Argus, 9 May 1881). Hofmeyr - Minister without portfolio until October 1881 when he resigned because support of the government's Basuto-land policy would lose him Dutch support (Hofmeyr op.cit. p.193).

¹⁷ (A44-81). The government refused to disclose information on the peace negotiations up to the last day (Cape Argus, 27 April 1881).

of cattle. Following compliance with these terms, the government could not demand a confiscation of land and would grant a complete amnesty for all acts committed during the rebellion.

The Award, especially the first clause, was a substitute for Peace Preservation¹⁸ and gave the Basuto the best of the bargain, resting as it did on the fiction of a Colonial victory. Orpen, relieving Griffith as Acting Governor's Agent in August,¹⁹ soon perceived that the Award was unenforceable,²⁰ for it purported to be a compact between the Cape government and a constituted state, whereas what in fact existed was "a raging crowd, upon some of the ringleaders of which an award was forced".²¹ Its operation, therefore, depended solely on the rebels, which meant their participation again in the conduct of Basuto affairs. Such participation was repugnant to the Loyals and equally so to the magistrates, most of whom asked to be removed for "their feelings were such as to make impartiality impossible". Thus Disarmament not only split the tribe in two; it showed that the lawbreakers were also the tribe's effective leaders, which made the prospects for the future extremely unhopeful.

With the Cape reeling under a debt of £2 million,²² Parliament now sought ways to be rid of Basutoland.²³ Solomon proposed that the "government of the native territories beyond the Kei River and the Orange River should be in the hands of the Imperial Government. (If this be agreed to)".²⁴ De Wet, in an amendment²⁵ went further, and said that because of the instructions in Robinson's letters patent and subsequent communications, which had hampered the Cape's

¹⁸ Scanlon (Cape Argus, 3 June 1881).

¹⁹ 25 Aug. 1881 (G47-82). See below.

²⁰ Acting Governor's Agent's report for Blue Book on Native Affairs (G47-82).

²¹ Orpen to Secretary for Native Affairs, 27 Jan. 1882 (A24-83).

²² Neethling in Legislative Council (Cape Argus, 5 May 1881).

²³ Zuid Afrikaan. (reported in Cape Argus, 24 May 1881).

²⁴ Cape Argus (May 20).

²⁵ Robinson to Kimberley, May 22 (G2964, p.22).

efforts in Basutoland, the Imperial Government be asked to repeal the Annexation Act after the Basuto had complied with the Award. This Kimberley refused to sanction. Though Robinson's instructions²⁶ had indicated that changes in the administrative arrangements for Basutoland might have to be made if British troops were used, no such question had in fact arisen; still less was there ground, therefore, for "entertaining a proposal to place Basutoland or the Transkeian territories under the Imperial Government".

The Imperial Government's determination to have its cake and eat it²⁷ left the Cape ministry with no alternative but to ensure the implementation of the Award as the only basis for the future peace of Basutoland. Sauer though a young, untried force²⁸ was chosen for the "most nasty job" of handling the peace negotiations.²⁹ Mindful of Sprigg's two disastrous visits, Sauer went determined to act warily;³⁰ failure would leave two equally unpleasant alternative courses - the continuation of the war or the abandonment of Basutoland.³¹

Sauer reached Basutoland in mid-winter in cold "almost beyond endurance."³² Accompanied by Griffith and Clarke he immediately held three meetings at Morija³³ attended by a large and cordial body of chiefs and headmen, and two missionaries, Dr. Casalis and the Rev. H.M.Dyke. The discussions showed the basic imperfections in the relationship between people living under the different forms of social organisation. Sauer emphasised the opportunity the Award

26 Para.23 of Kimberley's instructions to Robinson.

27 See above, pp.95-97.. They were determined to have a say in the final settlement without necessarily being burdened with the administration of Basutoland.

28 Merriman (Cape Argus, June 2). He was 32.

29 "Selections from the Correspondence of J.X.Merriman" Vol.1, p.93. Rhodes's opinion of Sauer was harsher. "If we are to ever do anything with the natives in this country we must have a straightforward, honorable big gentleman in charge of them" (Letter to Merriman, April 8, 1883. Merriman Papers).

30 Sauer, in Assembly (Cape Argus, May 28). His departure was announced in the House on May 27 (G26-82).

31 Zuid Afrikaan (quoted in Cape Argus, June 13, 1881).

32 Cape Argus 24 June 1881. Cochet acted as interpreter (Cape Argus Jan.9, 1882).

33 22nd, 23rd and 24th June (G26-82).

gave the Basuto to prove tangibly that they were in favour of peace. Lerethodi, while prepared positively to help the government by paying the fine and the gun licence, tried to indicate the difficult implications the Loyals compensations clause carried under native custom. "I promised them" he cried, "that what they took in war would be theirs; you make me a liar."³⁴

The "costly farce"³⁵ of keeping an army in the field dragged on, with daily desertions and the concomitant breakdowns in discipline. By August 7th³⁶ Sauer was still in Basutoland and only Masupha was holding up full compliance with the Award. The Yeomanry moved out on August 12th,³⁷ the last of the irregulars left on August 29,³⁸ and one or two traders returned to their stations. The settlement of the Loyals, most of whom were afraid to return to their homes, bulked large in the Basutoland scene. As the military moved out, their stores were used in Mafeteng, Maseru and the Leribe to feed these people squatting in the reserves around the magistracies,³⁹ and their brandy remained to whet the Basuto appetite for "Cape smoke".

Meanwhile Griffith was granted a year's leave to be followed by retirement.⁴⁰ "I cannot conceal from myself," he wrote⁴¹ to the Secretary for Native Affairs, "nor dare I conceal before you that my usefulness in the sphere of the government of Basutoland has been and is greatly impaired...". Bowker in retirement in Natal

³⁴ 24 June Meeting. (G26-82).

³⁵ "Selections from the Correspondence of J.X.Merriman". Vol.1,p.94. It gives an amusing description of a telegraphic conversation between Sauer and Merriman. "Our warriors" wired the former, "are well....picknicking on potted meats..."

³⁶ G26-82.

³⁷ G26-82.

³⁸ G26-82.

³⁹ G26-82.

⁴⁰ Premier to Orpen, A24-83. He was paid a pension of £675.17.2. per annum (Supplementary Estimate of Expenditure in G97-82).

⁴¹ 27 June 1881 (Native Affairs Department 279).

had declined to re-enter public life⁴² and Chalmers, the Civil Commissioner at Kingwilliamstown had refused the post.⁴³ Rolland's brother-in-law, Orpen, the ebullient, talkative Irishman was persuaded to become Acting Governor's Agent. "Conscientiously mad upon native affairs",⁴⁴ with an expert knowledge of Basuto history and custom, his rule as Acting Governor's Agent was disastrous for the Cape administration, because of his lack of flexibility and his inefficiency allied to an inordinate vanity. While Griffith had found it distasteful to deal with the rebels, Orpen because of his own conviction that a solution in Basutoland rested in their co-operation, tended to ignore the Loyals. Consequently he lost the support of his officials, some of whom had suffered considerably through rebel action so that by December⁴⁵ he was left with three out of the minimum 6 magistrates required to run the country.

Soon after Orpen's inception as Acting Governor's Agent,⁴⁶ Masupha made a public amende for his behaviour by submitting to the Award.⁴⁷ Sauer, understandably jubilant, confided to Scanlen⁴⁸ "...we have rounded the corner and it is now merely a matter of detail and perseverance." Completely misled⁴⁹ by Masupha's protestations Sauer proceeded southwards,⁵⁰ holding further meetings at Mohale's Hoek, Masitisi and Herschel,⁵¹ urging the tribesmen to accept the Award and promising that "the policy which would be pursued with reference to the native tribes would be a just and firm policy." ⁵²

⁴² Cape Argus, 6 Aug.1881.

⁴³ Scherbrucker (Cape Argus, 23 May 1882).

⁴⁴ Frost (Cape Argus, 14 April 1882). The Basuto called him "father of the Maluti" (Germond, p.372). He was "on intimate terms with the chiefs". (G4-83, p.486).

⁴⁵ Acting Governor's Agent to Secretary for Native Affairs, 6 Dec.1881 (A24-83). See correspondence dated 8-21 Dec.1881 between Orpen and Davies (Native Affairs Department 280).

⁴⁶ 25 August (G26-82).

⁴⁷ Sauer to Premier 11 Sept. A8-82.

⁴⁸ Sept.9 (C3112, p.66).

⁴⁹ Secretary for Native Affairs to Premier, 9 Sept.1881 (C3112, p.66).

⁵⁰ "I reached this (Mohale's Hoek) before dark, very tired" (Sauer to Premier, 11 Sept. A8-82).

⁵¹ Sept.12, 14 and 15 respectively (G26-82).

⁵² At Herschel. Ibid. Rhodes by comparison described it as "double dealing and tortuous" (To Merriman, 8 Apr.1883. Merriman Papers).

Two factors were responsible for Sauer's premature optimism. Orpen had assured him the Basuto were reconciled;⁵³ further such large numbers⁵⁴ of Basuto were leaving to work outside the territory⁵⁵ that even the missionaries were being allowed to issue passes.⁵⁶ Beneath this superficial euphoria, however, the contradictory forces set in motion by the Rebellion remained to perturb the nation.

In the Leribe, the animosity between the sons of Molapo - Jema-than, the new chief and Joel, his ambitious younger brother - over the question of their inheritance,⁵⁷ had broken into open warfare when the two brothers took opposing sides in the Rebellion.

Nothing, too, remained a contentious issue, its occupation⁵⁸ contingent upon the fulfilment of the Award. Implementation of the latter without the Loyals' compensation would have been a simple matter. But while the government felt bound to look after those who had supported it in the war,⁵⁹ the rebels refused to give up the Loyals' cattle, regarding it as the traditional "fair capture of war".⁶⁰

Consequently this question of Loyals' compensation became the focus of non-compliance with the whole Award, centring around Masupha. Since the rebellion Masupha had excluded a magistrate from his

53 Orpen to Secretary for Native Affairs (14 Oct.1881). C3112,p.86.

54 Alex.Bailie, A.R.M. Thaba Bosiu (at Mafeteng) 5 Dec.1881.C3112,p.122

55 Regarded as a barometer of political conditions in Basutoland. For figures see G47-82.

56 F.E.C.Bell, pro. Acting Governor's Agent to all magistrates (22 Sept.1881. G89-82).

57 For details of the succession and inheritance see Bailie's Report in G9-83. The rightful heir was in fact a lunatic older brother Joseph; because of this Molapo's estate could not be settled, resulting in the Joel-Jonathan feud.

58 Secretary for Native Affairs to Acting Governor's Agent (16 Oct. A24-83). It was occupied only by about 300 Loyals and a mixed bag of Baphuti, Fingo, Thembu and Basuto.

59 The government had constantly reiterated its promise to protect the Loyals and their property from the time Sprigg announced the disarmament policy at the 1879 Pitso.(Griffith to Orpen.5 Jan.1882. G89-82).

60 Orpen to Sauer (Oct.14. C3112. p.87).

district, thus making a farce of Colonial rule in Basutoland. In November therefore, the government decided that failing action against Masupha, the abandonment of the whole territory might be considered. The onus to find a way out of the problem was left completely to Orpen.⁶¹

In the following month Orpen decided that a concerted move by the whole tribe should be effected to humble Masupha. He therefore organised an attack on Thaba Bosiu, as a sign of national compliance with the law in accordance with Basuto tradition, rather than as a military manoeuvre.⁶² It was led by Lerothodi, now the tribe's de facto leader, though Letsie and Orpen both accompanied the expedition. In the subsequent attack on January 14th,⁶³ Thaba Bosiu fell without resistance; Masupha, however, was still not brought to justice, and the force retired.

While Orpen strove to settle at its source the impasse created by the Award, the Scanlen ministry turned, as Sprigg's had done before it, to the Home Government for relief. At the end of 1881 the Cape government was faced with three alternatives short of war in Basutoland:⁶⁴ withdrawal; enforcement of its authority by colonial forces; and the re-establishment of British supremacy by Imperial troops. Only the middle course was considered at this stage while the Award continued to militate against a peaceful solution of the continuing unrest.

On Robinson's advice⁶⁵ the Home Government gave Scanlen its blessing if the government should decide to make Masupha comply by

⁶¹ Secretary for Native Affairs to Acting Governor's Agent (7 Nov.1881 A24-83).

⁶² Acting Governor's Agent to Secretary for Native Affairs (10 Jan.1882 C3112, p.127).

⁶³ Acting Governor's Agent to Secretary for Native Affairs (Jan.14. C3112, p.128).

⁶⁴ Scanlen's Minute No.2004, dated 29 Dec.1881 (C12-82).

⁶⁵ Telegram dated 30 Dec.1881 (C3175, p.3).

force, but refused to commit itself on the question of fresh and unspecified terms for the Basuto.⁶⁶ Scanlen had asked for bread and been given a stone. Consequently he minuted his ministers⁶⁷ that unless the restrictions imposed on the Cape by Kimberley's instructions of 30 December 1880⁶⁸ were removed, and unless the Colonial Office gave a definite undertaking that the settlement would be in the hands of the Cape government, it would be useless to submit to parliament any proposal involving renewed hostilities.

Because the Loyals' suffering could not be allowed to continue the government decided to solve their difficulties by asking parliament for permission to withdraw Colonial authority from Basutoland North of the Orange. This would involve repealing the Annexation Act for that area, after which the government would recommend that the Loyals be settled in Quthing, which would be regarded as an integral part of the Colony.

The Scanlen Ministry was prepared to stand or fall by this extreme measure,⁶⁹ but Her Majesty's government would not so readily allow the Colony to jettison its obligations. It refused therefore to "sanction the partition of Basutoland in the manner described,"⁷⁰ and warned that "so grave a step as the withdrawal of all civilized government from the district should not be contemplated".

For the British government, native policy in Southern Africa was a "seamless web"; whereas the Cape government was interested only in getting out of the Basutoland disaster as cheaply and gracefully as possible, particularly as public opinion in the country

⁶⁶ Kimberley to Robinson. 6 Jan. 1882 (C12-82).

⁶⁷ 24 Jan. 1882 (C12-82).

⁶⁸ In which the Imperial Government forbade "confiscation by proclamation" (Kimberley to Robinson. 2 Feb. 1882. C3112, p.125).

⁶⁹ See Sauer's speech at Stellenbosch. Show on 25 Jan. 1882 (Cape Argus Jan. 26) in which he promised that if parliament rejected the proposals, the Ministry would resign.

⁷⁰ Kimberley to Robinson (2 Feb. 1882. C3112, p.125).

was swinging strongly towards disannexation⁷¹ under Sprigg-Upington influence. To satisfy the Home government Scanlen now suggested that failing compliance with the Award by a certain date, it should be cancelled and the land south of the Orange regarded as justly forfeited, and incorporated into the colony, to be settled by Loyals and European colonists.⁷² North of the Orange, the colony would enforce law and order, provided it had the right to confiscate the land and property of those who continued to rebel. Kimberley⁷³ pronounced this arrangement as falling within the scope of the principle laid down in his February 2nd despatch, providing the land belonging to the Loyals was secured to them. Consequently Scanlen informed Orpen⁷⁴ that failing full compliance by March 15, the Award was to be regarded as cancelled. Cancellation would "clear the way for a new point of departure after the 15th March"⁷⁵ which was necessary if the Cape government was not wholly to withdraw its administration from Basutoland.

The new test of tribal loyalty was to be a severe one under these conditions - the payment of hut tax - but one less likely to provoke a civil war than the renewed use of force against Masupha. Unfortunately news of this condition reached Basutoland simultaneously with the news of the government's plans for the country if the hut tax failed, which gave the Basuto the impression that the ultimatum's "bare meaning"⁷⁶ implied only two alternatives - war or abandonment and confiscation. Confiscation of land was the course most distasteful to the Basuto, the course most likely to

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- 71 Scanlen in House (Cape Argus, 4 Apr. 1882). While the Bond had no solution, probably those in favour of withdrawal were more numerous than those who wanted to continue the war (Davenport. p. 167).
- 72 The latter would buy the excess land as crown lands, the proceeds to be used to compensate Loyals and traders.
- 73 To Governor, 9 Feb. 1882 (G12-82).
- 74 Scanlen Minute No. 250A of 15 Feb. 1882 to his Ministers (G12-82).
- 75 Scanlen in Assembly (Cape Argus, 4 April 1882). Mabilie (to Secretary for Native Affairs, 12 Mar. C3717, p. 45) also agreed "it would be a good policy to proclaim award as complete". Compensation, he felt, should never have been included. Ellenberger ("A Century of Mission Work in Basutoland. 1833-1933") claimed it was Mabilie who persuaded Robinson to make these concessions.
- 76 Orpen to Secretary for Native Affairs, March 5 (A24A-83).

unite the tribe against the government, because it struck so deeply at the Basuto belief that the whole, undivided country was their ancestral property. Inevitably, when the news of the possible confiscation of Quthing was received in Basutoland, hut tax payments fell off sharply. Letsie, and the energetic Lerothodi⁷⁷ continued to urge the payment of the tax as a sign of good faith, which would prevent the government from implementing confiscation.⁷⁸

With rare good sense the government informed Letsie⁷⁹ that though confiscation was within the government's rights once the Award was cancelled, the government would not necessarily use this right because it required a decision of parliament ratified by the Queen. For Letsie, this promise was like "a reprieve at the last moment of a man long condemned to death".⁸⁰ He attacked the hut tax collection with renewed vigour,⁸¹ so that in spite of a money scarcity due to the poor demand for Basuto grain, it came in steadily. The Award, fortunately, was a dead duck, for the communication of March 14th removed the only effective coercive measure left for its implementation. On March 15th the Award was officially cancelled,⁸² the news being warmly received in Basutoland.⁸³ The effect of the Award's cancellation would be the removal of the gun tax and the abrogation of the traders' and Loyals' compensation clauses;⁸⁴ all the government now demanded was the payment of the £1 hut tax. When coupled with the intended repeal of the Peace Preservation Act

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- 77 In Cornet Spruit he personally led a punitive expedition against a minor chief Malibanye who had held up the hut tax payment. (Acting Governor's Agent to Secretary for Native Affairs, March 5. C3717, p.42).
- 78 Letsie was aware too that his position rested as much on his right of succession as on his ability to keep the tribal land intact.
- 79 In a telegram to Orpen, received on Mar.14(A24A-83) which Orpen paraphrased so that Letsie and the tribe could follow its abstractions.
- 80 Acting Governor's Agent to Secretary for Native Affairs (Mar.16, C3717, p.49).
- 81 By April it was coming in at Mafeteng at the rate of £100 per day (Acting Governor's Agent to Secretary for Native Affairs Apr.14. C3717). By Apr.12 (reported in Cape Argus) Sauer announced it was £3,000.
- 82 Secretary for Native Affairs to Deputy Acting Governor's Agent, Mar.29(G47-82). Rolland was acting as Deputy Acting Governor's Agent while Orpen went on leave.
- 83 Deputy Acting Governor's Agent to Secretary for Native Affairs (Mar.31,1882. C3717, p.54).
- 84 Secretary for Native Affairs to Deputy Acting Governor's Agent March 29 (G47-82).

as the fons et origo of the evil, this arrangement appeared to put Basutoland back to its pre-Rebellion condition.

The Loyals received the news of the proposed measures with bitter incredulity.⁸⁵ Since Scherbrucker had returned to Basutoland in February,⁸⁶ he and other European supporters like Dr. Matthews, M.L.A. for Kimberley⁸⁷ (who had taken up the loyal cause out of genuine sympathy for their sufferings) had been putting pressure on the Loyals to resist the government.⁸⁸ The cancellation of the Award had certainly left the Loyals without any effective means of recouping their losses. As a result Scanlen announced that the government would appoint an impartial committee to investigate and settle their claims.⁸⁹

The picture in 1882, however, was not an agreeable one, though the Cape government "hoped, by just and fair treatment, completely to restore law and order in Basutoland."⁹⁰ The war had been a traumatic experience slashing the close-knit fabric of the tribal structure. Physically the Basuto were impoverished, morally they had been damaged by the strain put on personal loyalties and by the disruptive consequences of the war on church and school. A cool politeness remained where earlier the first tentative steps towards closer co-operation had been taken between governed and governing.⁹¹

⁸⁵ Deputy Acting Governor's Agent to Secretary for Native Affairs Apr.5 (C3717, p.56). Report of Loyals' meeting. Also report of Hatchard A.R.M. Maseru (G74-82).

⁸⁶ He arrived Feb.14 (Cape Argus, Feb.24,1882).

⁸⁷ See "Inowadi Yami..p.373 et seq. They were aided by newspapers like the Kaffrarian Watchman.

⁸⁸ Mabile to Secretary for Native Affairs, 12 Mar.(C3717, p.45). Also Secretary for Native Affairs to Acting Governor's Agent, Feb.24 (A24-83), and Bailie (25 Jan. G47-82) who said these people gave the Loyals the idea that the more they impeded government now the better would be their treatment later.

⁸⁹ Cape Argus, Mar.28,1882. They totalled over £130,000. Those of traders £74,370, missionaries £4,100 and civil servants £2,688 (G33-82).

⁹⁰ Scanlen in the House (Cape Argus, 28 Mar.1882).

⁹¹ Sauer in the House (Cape Argus, 28 Mar.1882).

Sometimes it appeared as though the earlier euphoria was being recaptured.⁹² Four new trading posts were established;⁹³ the police travelled in the country, and even made arrests, unarmed;⁹⁴ Letsie was making a firm stand against drunkenness; all the chiefs at last appeared to be supporting the government.⁹⁵ And as the crowning step, the Cape government publicly went to Canossa with the repeal, exactly two years after its announcement, of Frere's fatal proclamation extending the Peace Preservation Act to Basutoland.⁹⁶

With the primary cause of the Basuto rebellion, ostensibly removed, the government looked forward to the speedy restoration of law and order,⁹⁷ anxious, like "Onse Jan",⁹⁸ to see whether the whole Basuto nation would settle down under the magistrates and pay hut tax, once the original grounds for disaffection were removed. Masupha's reaction came swiftly. He refused to appear at the Paramount's Pitso of April 12,⁹⁹ and a deputation, including Lerothodi, Maama, Seiso, and the Reverends Dyke, Mabile and Jousse was sent to argue with him.¹⁰⁰ For the second time the sons of Letsie denounced their uncle,¹⁰¹ reaffirming¹⁰² their faith in the government and promising to "show their gratitude by paying [hut] tax quickly."

The motives of Lerothodi and his brothers are worth examining particularly their assertion¹⁰³ that Masupha's recalcitrance was directed more against Letsie than the government. Knowing of the

92 Donald Fraser quoted by Sauer (Cape Argus 29 Apr. 1882).

93 Deputy Acting Governor's Agent to Secretary for Native Affairs, (May 17, C3717, p. 66).

94 Deputy Acting Governor's Agent to Secretary for Native Affairs, May 11 (Ibid.) p. 66.

95 Crpen, Apr. 11 (A24-83).

96 Government Gazette Apr. 8. The original proclamation was dated Apr. 6, 1880.

97 Secretary for Native Affairs to Deputy Acting Governor's Agent Apr. 8 (A24-83). Mabile shared his optimism. (To Secretary for Native Affairs, Apr. 9. C3717, p. 59).

98 Cape Argus Mar. 17, 1882. He and the Boeren Beschermings Vereeniging had supported the cancellation of the Award.

99 Deputy Acting Governor's Agent to Secretary for Native Affairs, Apr. 13 (C3717, p. 59).

100 Deputy Acting Governor's Agent to Secretary for Native Affairs (Apr. 19, A24-83).

101 As they had done after the abortive attack on Thaba Bosiu.

102 Deputy Acting Governor's Agent to Secretary for Native Affairs (Apr. 19. C3717, p. 61).

103 Deputy Acting Governor's Agent to Secretary for Native Affairs (Apr. 19, C3717, pp. 61-2).

Colony's wish to be relieved of its burden and that signs of disobedience against the government might be used as an excuse for abandonment, it is important to make Masupha's obstinacy appear as an internequine quarrel of the Joel-Jonathan order. Whether their own loyal assurances were sincere, is more difficult to decide. Maama and Seiso had hardly measured up to Lerothodi's standards of co-operation since the Rebellion; but all realised that abandonment at a time when the tribe was so disrupted and demoralised would inevitably expose them to the hated Western neighbour. For Lerothodi alone, there was one final and perhaps overriding issue. Masupha, as the focus of tribal independence, was a threat to him as legitimate successor to the paramount chief, particularly when the tribe was teetering on the brink of disintegration. On balance one can therefore safely assume that the Basuto chiefs, whatever the reasons at that period, were genuine in their promises of loyalty.¹⁰⁴

¹⁰⁴ Thus Lerothodi held a Pitso on 9 Aug. (A24-83), and threatened severe measures against the chiefs who delayed the payment of hut tax, also fining (with the Acting Governor's Agent's permission) the chiefs who had refused to join the "boycott" of Masupha. But Surmen on 12 July 1882 (A24B-83) collected only £412 in hut tax, whereas in 1872 (G25-72) the same district - Cornet Spruit - provided approximately £1,138 in revenue, most of which came from hut tax.

CHAPTER IX

While Joel and Jonathan jockeyed for power in the Leribe, while the Loyals chafed under their losses and Masupha defied both tribe and administrator, the year 1882 heralded "hard times in all South Africa".¹ In the Cape Colony, the crippling effects of the Gaika-Goaleka and Basuto wars, allied to the expenses of railway construction, were the most pressing problems. In March 1882 parliament was convened in an early session to deal with "calm deliberation" on Basutoland's future^{1a} by approving a policy which avoided the dangerous steps of abandoning colonial territories to rebels on one hand, or pledging the Cape's resources to struggling with an uncivilised tribe on the other.

Not surprisingly, Uppington² introduced a Bill in the Lower House, to repeal the Annexation Act, so that Basutoland would revert to the position of March 1868, when Wodehouse had issued his proclamation. The government, led by Merriman³ resisted the disannexation; the basis of his argument was the old fear - that abandonment would leave the Cape surrounded by a ring of hostile natives. He repeated the words of Pitt, a hundred years before, who had refused to abandon India. "There they are; and there we are placed by an All-wise Disposer of events. We must do the best we can in the situation." "If", he continued, "we ever succeed in becoming a nation... we must face this native difficulty and not basely retreat from it."

The Assembly rejected the Bill.⁴ In the Legislative Council the abandonment resolution was accepted by a fourteen to six majority⁵ and the Imperial Government informed of this decision. Kimberley,⁶ however, made it plain that his government did not intend to relieve the Colony of its responsibility.

1 Walker: "A History of Southern Africa", p.390.

1a Governor's opening speech (Al-82). The Volksraad on 21st March resolved that it had "seen with pleasure from the speech of His Excellency the governor...that no measure aiming at the abandonment of Basutoland will be proposed..." (Brand to Robinson, 23 Mar. 1882. C3717, p.48)

2 Cape Argus, 13 Apr. 1882.

3 Cape Argus, 14 Apr. 1882.

4 Cape Argus, 15 Apr. 1882. All but one member of the Boeren Bescherings Vereeniging supported the government (Davenport, p.168).

5 Cape Argus, 29 Apr. and 2 May. The Assembly had rejected it so overwhelmingly that the government would in any case have had to ignore the Council's resolution.

6 Cape Argus, 9 May 1882. Also A7-83.

The discharge of its obligations towards the Basuto was, however, quite beyond the Cape's resources both in men and money. Merriman had once,⁷ half in jest, suggested to Sauer "as a dernier resort we might fall back on General Gordon," who was reputed to have almost supernatural powers of control over primitive people. Sprigg, a year earlier, had wisely refused Gordon's offer to act as mediator in Basutoland.⁸ The Scanlen ministry, clutching at any straw, now remembered the impetuous,⁹ mystic man then about to leave his post on Mauritius and offered him the position of Cape Commandant General.¹⁰ A rumour soon began to circulate in political circles that his military appointment included a political mission - which was true, though the government had not bruited the fact abroad.

Gordon arrived in May 1882 and left immediately for the frontier accompanied by Orpen.¹¹ His discussions with the latter¹² confirmed the view he had expressed to the Governor "the day after I had arrived in Cape Town"¹³ that the casual transfer of Basutoland by the Imperial Government in 1871 was the cause of the trouble. Working on this theme, and with no other information but Orpen's opinions, he sent the governor a memorandum on Basutoland,¹⁴ which identified the wrong turning in Basuto history as Barkly's refusal to allow Basuto representation in the Cape parliament and recommended¹⁵ an immediate Pitso of the tribe, alone, to settle affairs.

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- 7 Approx. Aug. 1881. (See "Selections from Correspondence of J.X. Merriman" Vol. I, p. 94).
 - 8 Ibid. (footnote, p. 100).
 - 9 His own description "my natural impetuosity" (Gordon to Premier, June 12. C3493, p. 12)
 - 10 Clarke had resigned. (Cape Argus, 12 Oct. 1882). Gordon was offered the post of Cdt. Genl. of the Cape forces at a salary of £1200 p.a. plus £300 p.a. for travelling expenses. Merriman later maintained he had initially come to take up a position in Basutoland, but had refused when he heard Orpen was still in that post. (Letter to Cape Times, 24 Nov. 1896).
 - 11 Cape Argus, 18 May 1882. He assumed command June 1. (Cape Argus June 2)
 - 12 A "just, kind gentleman". (G5-83).
 - 13 Governor to Kimberley enclosing Gordon's memo and a covering letter 5 June 1882 (A7-83).
 - 14 Dated 26 May 1882, from Fort Beaufort (G5-83). Robinson sent it to Kimberley who made no comment save to reiterate the Home Government's determination not to relieve the Cape of its responsibilities. (July 5, A7-83).
 - 15 Even enclosing a copy of the form he suggested for the proclamation of the pitso.

This first memorandum was an indication of Gordon's whole superficial handling of Basuto affairs. Quick to grasp the main features of the situation, brilliant in executing an immediate plan, he lacked the ability of lesser, not so brilliant men, to examine the minutiae of a problem before coming to a tentative conclusion.¹⁶

In mid-July¹⁷ he drew up a draft Convention for the government of Basutoland. This Convention lay half way between the November 1871 regulations and the system later adopted by the British government when it took over Basutoland.¹⁸ The Colonial government was to guarantee the integrity of the Basuto nation within limits decided on and the Orange Free State was to be persuaded to uphold these. A Resident and two Sub-residents¹⁹ were to be appointed by the Colonial government to consult the paramount chief on the welfare of Basutoland, all internal affairs remaining under the chiefs' jurisdiction.²⁰ A Supreme Council would be established consisting of the leading chiefs and the Resident, the minor chiefs and Sub-residents forming a minor council whose decisions were subject to appeal to the Supreme Council. The hut tax of 10/- per year, collected by the chiefs would be paid to the Resident and Sub-residents and used to meet the cost of their salaries, roads, education etc., the chiefs getting 10% of the sum collected. The frontiers were to be under the supervision of the headmen concerned, passes for the Cape and Orange Free State being signed by the Resident and his two assistants; only the Resident was to handle communication between the Orange Free State and Basutoland. The Colonial warrant was to remain valid in Basutoland, the chiefs

16 Merriman to Scanlen, July 30. ("Selections from the Correspondence of J.K.Merriman", Vol.I, p.108). "It is a great pity he writes" said Merriman, "before making himself thoroughly acquainted with the subject"

17 Gordon to Colonial Secretary, July 19 (G5-83).

18 For November 1871, regulations see above. For the British system see Lagden op.cit. Vol.11, p.560 et seq.

19 Gordon suggested Griffith as Resident and Major Bell and Major Clarke as the two Sub-residents.

20 The Grahamstown Journal (quoted in Cape Argus, 19 June 1882) like Gordon, doubted the wisdom of retaining the magisterial system, but unlike him felt that because the expense involved was not large, it might be worth while trying the Ministry's plans for Basutoland for at least a year.

ensuring that all law breakers were handed over. Finally, on the signing of the Convention between the Cape Colony and the Paramount chief and people of Basutoland (all of whom would be completely amnestied under the Convention) the Colonial government would withdraw all its military forces and existing magisterial administration.

Like all Gordon's decisions, this Convention was a mixture of brilliant intuition²¹ and the lack of factual confirmation which frequently follows such inspired apriorism. While allowing for government "on the cheap" which was an integral part of later British administration, the proposals for a "Supreme Council" introduced into Basuto administration as alien a growth as the magistrates were. And the entrustment of frontier peace to the headmen was likely to result in return to the border unrest preceding the 1868 annexation. Finally, the withdrawal of colonial forces while Masupha was still belligerent and the Leribe inheritance quarrel overflowed into the Eastern Free State, was a practical impossibility although the government might appreciate the consequent cut in its expenses.

Merriman claimed that Gordon was using Indian analogies too closely in trying to solve Basutoland's problems;²² his own opinion was that the only way to handle the issue was by the existing policy of "divide et impera", rather than by appointing a Resident. Gordon was however trying to determine a middle course between two equally untenable alternatives - abandonment and occupation. In doing so he adumbrated a policy diametrically opposed to that of the Scanlen ministry which simply hoped to keep the status quo intact until, by the effluxion of time, Masupha and Letsie were removed from the scene, and the government might recover its influence. Like the rest of the cabinet, Merriman had no clear-cut plan for Basutoland. Thus the government drifted into co-operation with Gordon, only comprehending the anomalies between their policy and his, insofar as Orpen was concerned. "Orpen," Merriman wrote to Scanlen, the day after his

²¹ It appreciated, for example, that the magisterial system was the focal point of the chiefs' opposition.

²² Merriman to Scanlen, July 30. ("Selections from the Correspondence of J.X.Merriman". Vol.I, pp.108-9).

meeting with Gordon²³ "is not the man for this, he does not seem to have the grit to carry his plans - which are sometimes good - into effect. Now I think Gordon and Sauer could do this, one knows the Basutos and the other has grit enough for a regiment - there seems to be a terrible consensus of opinion about Orpen²⁴.... I wish Sauer to see with his own eyes, draw his own conclusions and then we must act. Nine months will soon be gone,²⁵ and before that time we must either do something or own ourselves beaten.... I repeat again let Sauer and Gordon go up..."

For financial reasons Gordon had already requested his release from the Colonial service;²⁶ under Merriman's influence²⁷ he agreed to stay for a further year and visit Basutoland in Sauer's company within the next few weeks. The visit was to prove one of the most unfortunate episodes in Cape history and for this the blame lies largely at Merriman's door. In his eagerness to settle the issue before parliament met, he was prepared to harness the slow-moving, unreliable Sauer subscribing to the Seanlen policy of "mutual jealousy and distrust among the chiefs" to the impetuous²⁸ equally unreliable Gordon, wholly opposed to divide and rule. These two unlikely partners set out for Basutoland in late August.²⁹ Gordon was still writing the strongest eulogies of Sauer who still manifested "feelings of admiration and almost veneration" for the General.³⁰

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- 23 July 30 ("Selections from the Correspondence of J.X.Merriman", Vol.I, p.109).
- 24 Merriman was undoubtedly influenced by Gordon, whom he wrote to Seanlen, was "terribly down upon Orpen" (his italics) (July 30. Ibid. p.110).
- 25 i.e. until parliament met again, when the government would have to report.
- 26 Gordon to Private Secretary to Premier, July 28 (C3493, p.26).
- 27 Merriman to Seanlen. July 30 ("Selections from the Correspondence of J.X.Merriman", Vol.I, p.110).
- 28 Whose impulsiveness he clearly recognised (Merriman to Seanlen, July 30. Ibid.)
- 29 Cape Argus, 26 Aug.1882. They arrived in Aliwal North on Sept.6 (Cape Argus, Sept.7).
- 30 Merriman in Cape Times (26 Nov.1896, when Boulger's "Life of Gordon" appeared).

They arrived in Basutoland in September, to find Orpen still grappling with the two major, interlocked, administrative problems; Masupha's intransigence and the land settlement of the Loyals. For subduing Masupha, and re-establishing the magistracy in Berea, his only instrument was "one vacillating, cowardly old man";³¹ the only force who had ever combined "national and government legitimacy". As for the second issue, pending the arrival of the Compensation Commission,³² Orpen had begun the settlement of picked Loyals in Quthing, on Sauer's orders.³³ This settlement was a sore point with Letsie and was probably responsible for his equivocal attitude to Masupha in August and September. Letsie felt it was his right as paramount and in keeping with tribal custom to send one of his sons into Quthing; in contrast, neither the newly-settled Loyals nor Barrett, magistrate in the area,³⁴ relished the idea of a former rebel chief establishing himself in the district.

Into this situation, deteriorating rapidly on all sides, came Sauer and Gordon; between them, and with the highest motives, they delivered the coup de grâce to Cape rule in Basutoland.

Soon after their arrival Gordon produced another memorandum on the Basuto situation,³⁵ a further example of his instinctive, impractical reasoning. He immediately put his finger on the causes of Letsie's "vacillation" - the close familial tie,³⁶ the Basuto fear

³¹ Acting Governor's Agent to Secretary for Native Affairs (July 5. A24A-83). Orpen was trying to obtain the government's permission to allow him to raise a native constabulary to enforce order. (Acting Governor's Agent to Secretary for Native Affairs. 8 July 1882.08-83)

³² Its members were Rhodes, Auret and Burger (members of the Assembly) and Griffith. They arrived in August and continued to work for three months. Payment of compensation was painfully slow compared with the hasty decision over disposing of Quthing. Maseru and Mafeteng claims were finally settled in March 1883. (Blyth to Secretary for Native Affairs. Mar.4. A24-83). In Sept.1883 Sauer asked the House for a further £25,000 to compensate the Loyals, and £27,541 for Europeans. (Cape Argus, 13 Sept.1883).

³³ Secretary for Native Affairs to Acting Governor's Agent (July 10. A24-83).

³⁴ Barrett to Acting Governor's Agent (Dec.9. A24B-83). In addition the Native Affairs/Expressly forbade any son of Moshoeshoe, or indeed any other chief, North of the Orange, to settle in Quthing without government consent.

³⁵ Sept.19 (06-83).

³⁶ Apart from being brothers, they were related through Letsie's son Lerothodi having married Masupha's daughter.

of civil war, and the fact that the government had never held out any real inducement to Letsie to subdue Masupha. Lerothodi's resolution, on the contrary was, as Gordon noted, prompted less by his admiration for the government than by his wish to remove a possible rival. Nevertheless, Lerothodi would never act against Masupha and incur the possible dislike of his people, unless he had the next heir, Maama, behind him and was sure of success. Consequently Gordon suggested that the policy was not to compel Letsie, because defeat would be fatal, but let the chiefs act when they were sure of the outcome. Contingent on this was the removal of Orpen who had done his best and failed, and the appointment of a new Governor's Agent who could in turn select new magistrates, all totally unconnected with the affairs of the past nine months. It is unnecessary to linger too long over this memorandum except to mention that the whole scheme hinged on the availability of suitable, dedicated personnel who were in fact not obtainable.³⁷ Worse, however, was the fact that it brought the dangerous dichotomy between the Sauer-Orpen and the Gordon policies right to the foot of Thaba Bosiu, with results which were fatal.

Following the production of this document Gordon finally prevailed upon Sauer to assent to his having a "private talk"³⁸ with Masupha on conditions³⁹ which Gordon confirmed in a letter to the Secretary for Native Affairs.⁴⁰ "I understand what you wish me to ascertain in the visit I propose making to the Chief Masupha (in a completely private capacity) is what he has to say in re the acceptance of a magistrate and consequent acknowledgement of the government and the payment of hut tax; that I am to represent to him the impossibility the government is under in re the abandonment of Basutoland

³⁷ See Orpen's own difficulties in getting suitable magistrates, above.

³⁸ Sauer to Garcia, Paymaster-General (26 Sept. G6-85).

³⁹ The conditions were intended to make clear the basis on which the government would treat with Masupha. (Garcia to Premier, Oct. 18. G6-82).

⁴⁰ 24 Sept. (G3493. p.72).

and to endeavour to obtain from him an announcement of what he would be content to agree to in order that you may be able to consider whether his wishes are acceptable to the government. I understand I have no power to make any promises whatever to him."⁴¹

Sauer made a mistake in permitting Gordon to visit Masupha, but in doing so he merely followed in the train of errors made by Scanlen and Merriman in allowing the General even to enter Basutoland. Sauer knew he was taking a dangerous step; he had already expressed his fear of Gordon "because of his sayings and conduct,"⁴² but believed that Arthur Garcia,⁴³ the Paymaster-General, who accompanied Gordon to Masupha, would hold him to the government's policy which Sauer had explained to Garcia the night before they went to Thaba Bosiu. One cannot, however, blame Sauer too severely in view of Gordon's September 24th letter. In spite of Boulger's spirited defence of Gordon⁴⁴ the General's reputation comes out of the Thaba Bosiu story a little tarnished. It was ridiculous for him to think he could act in "a private capacity" when "all his former utterances had shown that his whole idea was that his capacity was a very public one."⁴⁵

On the 24th September⁴⁶ Letsie suddenly moved to action informed Sauer he had put Lerothodi in charge of an armed force to reduce the rebels. With Gordon at Masupha's stronghold, this put Sauer in an awkward position, for while he still clung to the fiction of Letsie's being the ostensible repository of tribal authority, he could not ignore any action the paramount chose to take. Sauer immediately wrote

⁴¹ This letter was omitted from G6-83 which contained the Gordon-Sauer-Scanlen correspondence.

⁴² Sauer to Premier (16 Oct. G6-83). Compare his previous attitude (page 119 above).

⁴³ Described by Gordon as "an upright, outspoken, gentleman" (Gordon to Colonial Secretary, June 6, G3493, p.37) and "an able, straightforward, intelligent officer" (Gordon's report on the Colonial Regular forces, (Oct.5, G3493, p.59.) Sauer would also have liked Griffith to accompany them but Gordon refused (Garcia to Scanlen, 18 Oct. G6-83).

⁴⁴ Boulger. op.cit. His material came wholly from Gordon's account written ten years earlier.

⁴⁵ Cape Argus, Oct.30, 1882.

⁴⁶ Letsie to Sauer (G6-83). Sauer and Gordon had met Letsie at Morija on September 16. At this meeting Sauer had upbraided the paramount for not implementing the peace terms after the Rebellion and stipulated the government's requirements as payment of hut tax, obedience to the magistrates, and restoration of peace and order.

to Gordon⁴⁷ explaining that the Government had to decide at once whether to use Letsie's force to make Masupha submit; delay would cause dispersal of the tribe and the consequent failure to finalise Masupha's submission by this means. The responsibility, Sauer correctly concluded, now rested with Gordon whether the settlement was to be effected by force or negotiation.

Sauer's reasoning was based on the premise that he was dealing with an average man with no more than average man's share of irrationality. If one accepts that Gordon was an average man, then his letter of 24th September can be regarded only as a stratagem to get an interview, alone, with Masupha, and explain his own solution as laid down in his Draft Convention. But Gordon's own defence makes it difficult to believe this. "Is it possible" he wrote to Seanlen⁴⁸ "for you to believe that I went to Masupha at my own request merely to propose hut-tax, police, magistrate, pure and simple." This statement and his memorandum to Masupha⁴⁹ written at Thaba Bosiu make it quite clear he regarded Sauer's acquiescence to his visit as an acknowledgment of his right to put his own policy. In the memorandum he assured Masupha he would not fight the Basuto in September 1882 (as he had refused to in 1880), thus dissociating himself from Orpen's policy. He advised the chief to ask for the magistrate he wanted, who should treat Masupha "with all proper respect as great chief", and consulting him on important issues such as the disposal of revenue and the deployment of police on the Orange Free State border.

This was indeed political dynamite, for quite unequivocally it upheld Masupha in his assumption that he was a semi-independent chief and his lands a protectorate; so Gordon brought to the fountainhead of insurrection the beliefs which previously had been allowed to lie, unanswered and scarcely comprehended if the truth be told, in the Native Affairs Department files.

47 26 Sept. (G6-83).

48 October 11 (G6-83).

49 September 25 (G6-83).

Following the despatch of this memorandum⁵⁰ the meeting took place with Masupha, when Gordon repeated the propositions made in it, conducting the meeting with the mixture of mysticism and symbolism which had proved so effective in his earlier contacts with the "semi-barbarous" races. Masupha was unmoved; he did not want any magistrate, because he disliked the institution which put the common people on an equal footing with the chiefs; hut tax he would pay, but to Letsie who could send it to a magistrate at Aliwal North.⁵¹

Gordon's memorandum to Masupha was received with blank astonishment by Sauer.⁵² It brought home, sharply, to him the fact that Gordon had jeopardised the whole peace settlement and that the only reasonable course remaining was quickly to get the General away from Masupha's place before Letsie's army dispersed⁵³ and an attack proved impossible. Gordon's reaction was to tell Sauer he would wait only one day more for Masupha's answer⁵⁴ following which he intended to quit Basutoland, "in grave displeasure"⁵⁵ over the use of Lerothodi's force.

The concluding chapter of the Thaba Bosiu incident is a descent into sheer farce. Masupha sent no reply, and Gordon wrote him on September 27th telling him of his departure; whereupon the chief professed surprise at the news of Lerothodi's pending attack, particularly as he was just about to accept Gordon's proposals.⁵⁷ Sauer now admitted⁵⁸ his doubt that Masupha would ever have accepted the government's terms and, reverting to "divide and rule", announced that he was dissociating the government as far as possible with

50 Garcia to Sauer (Sept. 26. 06-83).

51 C.E.H. Glasbrook Acting Governor's Agent's clerk to Secretary for Native Affairs, enclosing statement of one Tsinyane, on Masupha's attitude just after Gordon's visit (5 Dec. A24B-83).

52 W.G. Bellairs (Memo 19 Oct. 06-83). He was Sauer's private secretary. At this time Sauer's attitude of admiration had changed to one of patently condescending toleration to a person he regarded as "eccentric or peculiar". (Ibid.)

53 Memo of D. Hook, Civil Commissioner, Herschel (16 Oct. 06-83).

54 Garcia to Sauer 26 Sept. (06-83).

55 Cape Argus, 5 Oct. 1882. He was, however, never in grave danger as one member of the Assembly accused the government (Sauer in Assembly, Cape Argus, 6 Feb. 1883).

56 Garcia to Sauer (Sept. 27. 06-83).

57 Gordon (Garcia to Sauer, 27 Sept. Ibid.) still believed he would have accepted the magistrate and modified hut tax had Lerothodi not come.

58 To Gordon, Sept. 28 (Ibid.)

Letsie's use of force, so that the Paramount and not the government would bear the blame for failure. Gordon, to the end, stuck to his original belief that Masupha would come to terms if "Orpen is kept out of it,"⁵⁹ but even had Masupha agreed it is doubtful whether the Cape parliament would have accepted Gordon's terms.

On September 27th Gordon telegraphed⁶⁰ his resignation to Scanlen, who agreed that considering the nature of his communications to Masupha⁶¹ it would not be in the public interest for Gordon to continue in office. Now the public recriminations began. Gordon, quite correctly maintained⁶² the government had known of his antagonism to Orpen's policy but had nevertheless wanted him to go to Basutoland with Sauer. "I did my best for interest of colony irrespective of my own personal considerations" he informed Scanlen, and claimed, not altogether honestly, that Sauer had proposed the visit to Masupha but given him no instructions "because he never had any policy to follow."⁶³ Gordon quitted the Cape convinced that he had been activated by nothing but the highest motives - and indeed he was, as shown by his offer to act as magistrate with Masupha for two years.⁶⁴ Already in October, 1882 the Prophet's army was marching on Khartoum - a place so unknown that its position had to be explained to newspaper readers - and Gordon went to meet his destiny elsewhere.⁶⁵

Behind him he left the very problems he had airily regarded as soluble on May 26th. There is no doubt that Gordon's indiscretion had given Masupha a moral coup de main against the government, so

59 Gordon to Sauer, Sept.29. Ibid.

60 Gordon to Sauer (G6-83) enclosed the telegram to Scanlen.

61 Scanlen to Gordon, Oct.5 (G6-83).

62 To Scanlen, Oct.6 (G6-83).

63 Gordon to Premier, Oct.11 (G6-83). Whether Sauer proposed, the meeting or simply agreed to it, is not clear.

64 To Scanlen (Oct.8. C3493. p.88).

65 Sauer's part in the affair also damaged his political reputation. The Cape Times (Nov.26,1896) claimed that he had "in no phase of his career lacked good haters." One of these was Rhodes. ("Selections from the Correspondence of J.X.Merriman." Vol.I, p.123).

that when Lerothodi ordered him to pay his hut tax, he refused saying the despatch of the commando while he and Gordon were conferring, made him look on Lerothodi "with suspicion."⁶⁶

As a result of Gordon's interference "much division and disagreement [resulted] amongst Lerothodi's followers as to the advisability of coercing Masupha."⁶⁷ Joel's force tired of waiting and returned home; and the early spring rains completed the course of disorganisation and disinterest. The whole operation was finally abandoned on the grounds that most people opposed the use of force against Masupha.⁶⁸ The government, therefore, had to return to negotiation with Masupha.

On October 18, "under the trees" at Masupha's village⁶⁹ Sauer met the chief and about 1000 tribesmen and submitted the government's demands in unambiguous language,⁷⁰ devoid of the figurative adornments most Europeans have always felt obliged to use in public meetings with the native races in their tribal state. He demanded the payment of hut tax, promising that the laws would be framed to meet Basuto circumstances and habits as far as possible; and while recognising the chiefs' position, made it clear that this did not condone the exercise of absolute authority by them. This contradiction in terms was fully recognised by Masupha who re-iterated his former argument, that the Basuto wished to be ruled as they had been in Moshoeshoe's time, and not since the Cape annexation.

Apart from Masupha, there was no open defiance of authority; and even in his district neither Europeans nor Loyals were molested,⁷¹ and some people had even paid hut tax. In an attempt therefore to find a solution which would have the support of the other chiefs, the government began to move away from the conditions of the existing

⁶⁶ Cape Argus, Oct.5,1882.

⁶⁷ Cape Argus, Oct.6,1882.

⁶⁸ Cape Argus, Oct.16,1882

⁶⁹ Cape Argus, Oct.23,1882.

⁷⁰ Let us, he advised Masupha, call "a spade a spade and not a spade a plough." (96-83).

⁷¹ Cape Argus, Oct.30,1882.

magisterial system and to contemplate greater Basuto participation in administration, providing Masupha submitted. To discuss the proposed changes, Seanlen joined Sauer at Aliwal North⁷² in the first week of November.

Strong action from Cape Town seemed invariably doomed to negation by confusion in Basutoland. As the Cape government tentatively felt its way towards a new system, the Joel-Jonathan quarrel flared up again at the end of November. This sparked off a number of raids and counter-raids in which the whole Molapo family ranged itself on opposing sides, and the pleasant grassy hillsides and wooded kloofs of the Leribe were devastated.⁷³ It was obvious that the settlement of Molapo's estate was the first obligation on the government. While Orpen's main concern was to use his own administrative machinery to settle a dispute involving native law, Sauer was aware of the dangers to the whole system if the court's decision were not implemented. Orpen's standpoint prevailed.

On December 14⁷⁴ Joel agreed to arbitration and the dispute was heard at Thlotsi Heights in late December,⁷⁵ before Orpen in his role of chief magistrate, and in the presence of Lerothodi, Masma, Sofonia, Nehemiah and others. In his judgment Orpen fined both chiefs lightly, ordering them to make a public reconciliation, and the Leribe appeared to settle down immediately.⁷⁶ The "kindly" feeling was superficial and the quarrel soon flared up again. On January 15, 1883, Jonathan drew up a petition to the House of Assembly⁷⁷ recounting his obedience to his dying father's instructions on

⁷² Cape Argus, Nov. 6, 1882.

⁷³ For details see C3717, p. 94 ff. and A7-83.

⁷⁴ Robinson to Kimberley, 19 Dec. (A7-83).

⁷⁵ Report in G9-83).

⁷⁶ Rolland to Secretary for Native Affairs (27 Dec. C3717, p. 106). In his return for 1882, Bailie, the Resident Magistrate, reported revenue receipts exceeded expenditure (G9-83).

⁷⁷ A1-83.

Disarmament and claiming that Letale had acknowledged him as the lawful chief of the Leribe, in the presence of Griffith, Davies the magistrate and the Reverends Jousse and Moore Dyke. Consequently Orpen again proposed to meet the Molapo family, so as to make a fresh settlement consistent "with general principles and their own customs."⁷⁸

The uneasiness in the Leribe was symptomatic of the malaise which permeated Basuto life. Educational and spiritual work had suffered a temporary eclipse during the hostilities which had seriously eroded the beliefs of the native Christians.⁷⁹ The taste for liquor developed by the presence of the Cape troops was being amply satisfied by the numerous canteens along the Orange Free State border.⁸⁰ The war had left the roads in a ruinous condition; trade was dull and many of the traders had not returned to repair the damage done to their shops during the Rebellion.

Politically the prevailing attitude, as reported from all the magistracies (except Mafeteng, where Lerothodi's influence was apparent) was one of passive resistance to the government. In some districts the chiefs' control over their subjects was returning to its pre-Annexation entirety. Hut tax, the customary gauge of political feeling was being paid generally, but slowly and sporadically.⁸¹ Even in Maseru the magistrate's writ ran no further than the confines of the residency reserve.⁸²

Orpen's confused attempts to rally the pro-government forces around Lerothodi had suffered a sharp setback with Gordon's visit to Masupha. Basutoland lay in the grip of a nation-wide and paralyzing inertia which made effective rule impossible.

⁷⁸ Acting Governor's Agent to Secretary for Native Affairs (25 Jan. 1910-83. Part I).

⁷⁹ Report from Revs. H. Dieterlen and P. Germond (Dec. 29) and L. J. Cochet (Jan. 4) (G8-83). The "Little Light" re-appeared but the training schools were below pre-war standard.

⁸⁰ Report, Resident Magistrate, Maseru. (Dec. 26, 1882. G8-83).

⁸¹ Reports from magistrates at Maseru, Mafeteng and Cornet Spruit. (G8-83).

⁸² Moffat's Report (Native Affairs Department 284).

CHAPTER X

1883 saw the end of the Cape's attempts to find a solution in Basutoland primarily because of the tribe's own attitude.

In January the government called a special session of parliament to approve new plans which were to be implemented in the territory by the premier himself. In his opening speech the governor announced the Colony's partial withdrawal¹ from Basutoland while still fulfilling the obligations under the Treaty of Aliwal North, voluntarily accepted when the Annexation Act had been passed by parliament. Linked to this was a plan for the gradual development of local self-government under which the government trusted the tribe would "once more make such steady progress in civilisation as will testify to the wisdom and moderation of the policy now recommended for your approval."²

The proposed abandonment caused general alarm in Basutoland.³ On January 22nd⁴ Rolland wrote to Sauer on Letsie's behalf, asking that there should be no change in the Basuto constitution without prior consultation with the tribe. On the same day Mabile forwarded a letter from the Paramount to the Secretary for Native Affairs,⁵ assuring the government that except for Masupha and Ramanella, the whole tribe wished to remain under government protection, as shown by their willingness to pay the hut tax in spite of their poverty. The following day Letsie wrote directly to Sauer,⁶ asking that two delegates be sent to find out from the chiefs and people if they were willing to be abandoned.

¹ Jan.19,1883 (C3717, p.106). Rhodes regarded this withdrawal as a "retreat, almost more humiliating than Sprigg's" (To Merriman, Apr.8,1883. Merriman Papers).

² The report of the 1880 Native Laws Commission was about to be laid on the table of the House and he hoped that it would form the basis for "placing the government of the dependencies upon a more satisfactory footing..."

³ Nettelton, Jan.22,1883.(G10-83. Part I).

⁴ G10-83.

⁵ Ibid.

⁶ G10-83. Part 1.

But circumstances had forced the Scanlen Ministry to change its ground since the previous session. Like any other Colonial power, the Cape was subject to home pressures. In 1882 Scanlen had promised the House it would not again be asked to vote supplies for Basutoland;⁷ the government now needed the hard cash collected primarily from the hut tax, if the territory were not to become a burden on the colony.⁸ Throughout the Colony⁹ even before the session, members had been meeting their constituents to explain their own views and gauge public opinion. When parliament met, over 50 petitions¹⁰ in favour of abandonment had come in from all parts of the colony - Cathcart, Aberdeen, Richmond, Somerset East, Calvinia, Riversdale, Hopetown and Colesberg; judging from the names of the petitioners¹¹ many of the moving spirits were members of Hofmeyr's Boeren Besoehrnings Vereeniging.

Soon after the opening Scanlen explained the government's policy in fuller detail.¹² After the cancellation of the Award and the repeal of the Disarmament Proclamation, new proposals for the administration of Basutoland had been left in abeyance until the people were calmer and convinced of the government's goodwill through the actions of the Compensation Committee. Before the latter's work had finished, however, fighting broke out first in the Leribe, and then in Berea where Ramanella and Lepogo¹³ were responsible. The government, because it lacked a force to cope with the unrest, now had to face the problem of Basutoland's future government. Rather than settle this by executive action,¹⁴ Scanlen decided to put the issue before parliament.

⁷ Scanlen in House (Cape Argus, Jan.23,1883). These supplies were only for compensation purposes as Basutoland expenses prior to the war, had been met out of her own revenue.

⁸ By February 1883 net deficit was £59,059. (A8-83).

⁹ Cape Argus, Jan.10,1882.

¹⁰ Ayliff in House (Cape Argus, Feb.5,1883).

¹¹ J.C.Froneman at Cathcart, H.S.Booyesen at Aberdeen, W.J.van der Merwe of Richmond, G.Jordaan at Somerset East (Cape Argus, 24 Jan.)

¹² Cape Argus, Jan.23,1883.

¹³ Variouslly spelt Lopoquo. He was named after Moshoeshoe, whose boyhood name this was. (Germond. op.cit. p.297).

¹⁴ Which was fully permissible under the Annexation Act but might cause the desertion of his parliamentary allies.

The plan proposed in the governor's speech¹⁵ involved the retention of the Governor's Agent but not the magistrates. The Governor's Agent would advise the chiefs and take steps to prevent border incidents with the Orange Free State, using the available military and police forces until the Basuto themselves organised a police force. The government planned to organise a form of local self government suited to Basuto needs, the people themselves bearing all costs of the administration. Contingent on the House's approval of the scheme, Scanlen would visit Basutoland to ascertain the feelings of the Basuto people and also those of their Western neighbour.

Echoes of Gordon's Draft Convention sound in Scanlen's proposals. Like him, the Cape government was looking for the mean between complete abandonment, which the Imperial government would not permit because it would lead to war with the Free State, and full occupation - which was impossible. Like Gordon, the Scanlen Ministry believed salvation lay in the direction of giving tribal natives a limited share in government,¹⁶ a belief fostered by the report of the Native Laws and Customs Commission which had just appeared.¹⁷

Uppingen's vote of no confidence introduced in the House on January 29th¹⁸ and seconded by Van Zyl, revolved around this question of self-government for the Basuto which he felt would create further unrest in South Africa. The whole issue of the Cape's future relations with both the Imperial and Free State governments was involved. Hoping to enlist the latter's help in solving the Basutoland dilemma,

¹⁵ C3717, pp.106-7.

¹⁶ Merriman in Legislative Council - Cape Argus, Jan.27,1883.

¹⁷ G4-83. "The system we have hitherto provided, consisting as that does of magistrates subordinate to chief magistrates....", reported the Commission [Part I, p.43] "lacks executive force". The Commission consequently recommended the establishment in the three extra-colonial territories (Griqualand East, Transkei and Tembuland) of a Council of 18 members, 3 of whom were to be the Chief Magistrates, the remaining 15 to be natives elected for 2 years. At a municipal level the Commission found no need or aptitude for native participation. These same strictures would apply to Basutoland though not specifically recommended in G4-83.

¹⁸ Cape Argus, 31 Jan.1883. Griffith was present throughout the debate

Hofmeyr, in the ensuing debate¹⁹ moved that the government "should enter into negotiations with the Imperial government with the object of preparing the way for joint action between the Free State and Colonial governments whenever serious native disturbances should arise in the territories in question; and that the decision of this House on the proposed changes in the future administration of affairs in Basutoland shall be postponed to await the result of such negotiations."

Hofmeyr's attitude was prompted by the belief that the intervention of the Imperial factor was more dangerous than a renewal of the Basuto war.²⁰ Consequently he suggested the appointment of Commissioners to draw up a treaty in co-operation with the Orange Free State to systematize border policy subject to the Imperial government's consent.²¹

The special session ended with the defeat of Upington's motion by 50 votes to 12.²² Scanlen refused to send a Commission of Inquiry into Basutoland, asking parliament to give the new policy a chance and promising no further changes would be decided on until parliament met again. Instead of a Commission, the Premier and Sauer were to visit Basutoland to put across the scheme of local self government to the chiefs;²³ at the same time Orpen, because he had been part of the old, unsuccessful policy, was to be removed from his post.²⁴

From Basutoland came Orpen's approval in principle of the new policy²⁵ with a claim that he had put forward similar suggestions in Some principles of Native Government considered.²⁶ The danger of the new assumption lay, he believed, in the fact that "in the semblance

19 Cape Argus, Jan.31,1883.

20 Davenport. Hofmeyr's attitude to the Sprigg-Upington party had changed. Whereas in 1880 he had opposed them (on Confederation), by 1883 he agreed with them on native policy - "No external interference and Colonial interests first". (Hofmeyr. op.cit. p.238).

21 When Sauer and Scanlen met Brand on March 13, he made it clear he was against such an alliance and expected the Cape to enforce order on its own. (Robinsen to Derby. Mar.19. C3717, p.117). In June the Volksraad formally rejected this proposal.

22 Cape Argus. Ibid.

23 Cape Argus, Feb.7,1883.

24 Secretary for Native Affairs to Acting Governor's Agent, 20 Feb. (A24-83) and telegram of 9 Feb. (A24B-83).

25 Acting Governor's Agent to Secretary for Native Affairs, Feb.14,1883 (A24-83).

26 Orpen claimed this pamphlet had led to the appointment of the 1880 Native Laws Commission whose report had just appeared (Jan.1883).

of creating self-government, the Basutos might, in such a measure, be evidently and really abandoned to anarchy under many separate tyrants, recognised and thus supported, by the government, and that the people would be more alienated than ever...." On the other hand incipient self rule would be a progressive move which needed the assistance of experienced people like himself and Rolland for fulfilment.

In spite of a storm of protestations that he therefore remain,²⁷ Orpen was swept away with the policy he had represented - the full occupation of Basutoland by the Cape as a Colonial dependancy through the extension of the magisterial system.

A sound theorist,²⁸ Orpen recognised that any hostilities can only end in co-operation between former enemies, irrespective of the merits or demerits of the earlier conflict; his failure lay in his not implementing his theories logically or efficiently. Fine phrases came easily from his pen; their meaning is not always clear. He was "led away by his hopes"²⁹ into the realms of impossibility particularly on the question of combined Imperial-Colonial action,³⁰ while the administrative machinery ground slowly to a standstill.³¹ The insignificant parliamentarian Laing was right³² in attributing Orpen's failure to his inability to manage men; no matter how good the policy, the personal enmities it aroused invalidated its whole effect.³³ He did his best, as Merriman once cruelly suggested;³⁴ it was not always the best.

27 See correspondence with Scanlen (Feb-March 1883. A24B-83).

28 Sauer gave him his full due, publicly, in the House (Cape Argus, July 24, 1883).

29 Laing in Assembly Debate (Cape Argus, 4 Apr. 1882). He had been one of the biggest bores in the Assembly. (Cape Argus, 5 July 1879).

30 Acting Governor's Agent's report (G47-82). Sauer (22 Feb. 1882) (G3717 p. 64) warned him "to dismiss [it] from his mind". Rhodes, however, agreed with Orpen on the desirability of joint action. (To Merriman, 8 Apr. 1880. Merriman Papers).

31 See Blyth's Report below.

32 House of Assembly debate (Cape Argus, 4 Apr. 1882).

33 See, for example, his handling of the Motheo case (G89-82) which aroused the bitter resentment of Davies. Only Surmon of all the magistrates, appears to have got on with him.

34 Assembly Debate (Cape Argus, 14 Apr. 1882).

Regretfully, then, and with recognition of his "devotion, energy and singlemindedness"³⁵ the government decided to replace Orpen with an old opponent, Captain Matthew Blyth, Chief Magistrate of the Transkei stationed at Butterworth.³⁶

Blyth's first report as Acting Governor's Agent³⁷ was a serious indictment both of Orpen's administration and policy. "...I found the office in great confusion," he wrote, "books, papers, telegrams all muddled together without any order or regularity. The accounts were in a state of confusion, certain moneys in the chest had never been brought to account, and proper accounts had not been rendered from two of the magistrates." The Leribe cash book, he claimed, in no way reflected cash transactions there. Hut tax was frequently paid in mealies taken in at 10/- a bag, though they would fetch far less. From July 1st, 1882, to February 28th, 1883, £14,104 had been spent, and £4,684 paid out in advances, only some of which was recoverable. Orpen's administration had been characterised by high salaries and lavish expenditure on systems such as rationing, which had led to abuses and left the country bankrupt. Blyth's first step was to reduce this "overgrown expenditure to a reasonable limit," and he immediately began working out a scheme to cut down expenses to £9,000 as compared with £22,000 in the previous year.³⁸

"An experienced and able official"³⁹ with long years of service among the native tribes, Blyth's own appointment was not wholly satisfactory, as far as the Basuto were concerned, because of his part in Nehemiah's trial.⁴⁰ Such a strong undercurrent of feeling consequently existed against him, that it was nearly two weeks after his

³⁵ Secretary for Native Affairs to Acting Governor's Agent (Feb. 9, 1883, A24-83).

³⁶ Secretary for Native Affairs to Capt. Blyth (9 Feb. 1883, A24-83). He was offered the post as an acting appointment so that he could return to his former post if the Cape abandoned Basutoland.

³⁷ 7 April 1883. (C3717, p. 137).

³⁸ Among the economies, in April the police were withdrawn from all out-stations. Bailie (Resident Magistrate Leribe) in his report for 1883 (Native Affairs Department 284) blamed the outbreak of hostilities in May on this action.

³⁹ Cape Argus, 19 Feb. 1883. He had spent 6 years with the Fingoes.

⁴⁰ See above.

arrival before he was even officially recognised by Letsie.⁴¹ His position, however, was simply a pis aller to tide Basutoland over the period of the Cape's disengagement.

For simultaneously with Blyth came Sauer and Scanlen bringing the plans for this extrication.

Having met Letsie at Morija, the two ministers went on to a meeting with the Loyals at Maseru.⁴² The purpose of the meeting was to ascertain from the individual chiefs whether they wished to maintain the colonial connection. Nehemiah claimed that only four chiefs - Masupha, Ramanelle, Bereng and Maama - desired independence; the common people, however, wanted the colonial link, and feared abandonment. Sofonia supported Nehemiah, declaring that the Resident plan was preferable to abandonment, which would lead to internecine strife, and a recurrence of the Orange Free State trouble.

The Loyal chiefs were examined again on the following day.⁴³ On only one thing were all the chiefs agreed - that they deprecated their loss of power. For the rest there was no accord on the future policy. Some advised force, some counselled patience. Even on the question of whether the government should remain at all, no semblance of unanimity was presented. After close interrogation by both Sauer and Scanlen, George openly admitted that no one in the whole tribe wanted white rule, whether by Colonial or Imperial government. Tsekelo denied this. He blamed the failure of the administration on the fact that the regulations for government had been made, not according to custom but "instead of doing that the government called Commandant Bowker and Mabile into a room and talked to them, and from them the laws are dictated."

The new Acting Governor's Agent attended the next meeting.⁴⁴ Letsie himself was not present as a sign of his dissatisfaction over

⁴¹ At Morija on March 27th. Letsie compared his attitude to Blyth to his own forced marriage to two wives whom he had later learnt to love (G54-83).

⁴² 19 Mar. 1883. (G3708, p. 45 ff). Nehemiah, Tsekelo, George and Sofonia were present.

⁴³ Mar. 20. Ibid.

⁴⁴ On Mar. 21 (G54-83).

Orpen's removal. Most of the discussion at the following meeting⁴⁵ centred around basic tribal issues - the chiefs' authority to "place" people; the ownership of grass, reeds etc. Sauer and Scanlen did their best to understand what the Basuto were really feeling on the political issue by bringing the discussion back to the main argument - did the Basuto wish to be under Cape or Imperial rule; if they opted to remain British subjects - would they behave accordingly, paying hut tax,⁴⁶ extraditing offenders who had fled to Basutoland and so on. The introduction of Imperial rule was not in the mandate parliament had given the two ministers. The Home Government, at this stage, had clearly indicated its unwillingness to accept the Basutoland burden; and it must have been rather uncomfortable for Scanlen to discover during his questioning that the Basuto preferred Imperial rule to the Cape's. Scanlen assured them of a share in local affairs whatever government controlled them. And Sauer allayed their other main fear by promising Quthing would not be alienated; the settlement of the Loyals there, he assured Letsie, had not been designed to show that the paramount had forfeited his rights over that district. The question of Quthing was simply contingent on the greater question of settling the fate of Basutoland north of the Orange, and would be regarded as part of Basutoland proper in the final assessment.⁴⁷

The Morija meeting was continued on the following day when specific points concerning jurisdiction and the proposed representation were discussed. Letsie suggested that disputes between white men should be heard by a magistrate; cases between Basuto should, however, only be heard by a magistrate providing they had first been judged by the chiefs. On the representation question, he accepted

⁴⁵ At Morija on 26 March, attended by Letsie and his sons Bereng, Maama and Seiso (G54-83).

⁴⁶ Sauer and Scanlen were keen hut tax should be fully paid up before parliament met, so that an actual amount could be stated. To the Acting Governor's Agent (24 Apr. G54-83) Sauer wrote that hut tax would be reduced to 10/- p.a. which was enough to meet Basutoland expenditure.

⁴⁷ Matatiele, however, Scanlen explained at the 26 March meeting, was not part of Basutoland annexed by Wodehouse. Any Basuto living there were subject to the laws and government of that part of the colony. (G3708, p.86).

the government's proposal of a type of parliament, consisting of chiefs selected by the paramount together with about 30 headmen, half to be chosen by the Governor's Agent and the other half by himself, with the help of the chiefs and councillors.

The Cape parliament, Scanlen explained at a meeting the following day,⁴⁸ would only consider plans for the whole of Basutoland; this made it necessary to have Masupha's full co-operation in the settlement. Sauer therefore urged Letsie and his sons to exert themselves more if the former's position as paramount were to remain unimpaired. Sauer's observation emphasized one of the intrinsic difficulties in ruling Basutoland - the government's suspicion that the chiefs were not fully supporting their proposals and the chiefs' suspicions that such proposals were intended to reduce their power.

On March 31st Scanlen wrote to Letsie exhorting him to persuade his people to accept the new draft constitution,⁴⁹ because of its importance for their future welfare. Letsie was advised to impress on his people the necessity immediately to pay hut tax arrears both as the customary sign of obedience to the government and as providing the means to keep the country going.

At Thlotsi Heights the final plan for Basutoland's future was drawn up after 2½ days intensive discussion with Letsie, his sons, the lesser chiefs, the headmen and the people, during which Sauer "gathered that they desired something like this."⁵⁰ Abandonment, it was agreed by all would lead to the disintegration of Basutoland. The government, therefore, had decided in the most liberal constitution⁵¹ ever granted to any native tribe, to govern through the chiefs and people, who would now assume many of the duties previously

⁴⁸ March 28 (G54-83). Letsie was not present, but 'Ntho his chief councillor was.

⁴⁹ G54-83.

⁵⁰ Thlotsi Pitso. April 2 (C3708, p.126).

⁵¹ As Sauer described it when the Rev. Coillard read the proposed constitution in Sotho at the Thlotsi Heights meeting.

carried out by the magistrates. The principle adopted, in Moffat's words⁵² was "to deal with things as they are, not as it might be desired that they should go."

Basutoland was to remain intact and include Quthing. The Cape governor would appoint the Governor's Agent and other officials necessary for Basuto government. The Governor's Agent, or any other officer appointed by the Governor, would have sole jurisdiction over cases involving Europeans or non-Basuto, including criminal cases involving these people - unless the Governor ordered such cases to be tried under a Cape Court. Civil cases, between Europeans and Basuto were to be heard by the Governor's Agent or some other official appointed by the Governor, with the assistance of the chief in whose district the Mosuto party resided; the paramount chief would ensure the Mosuto observed the judgment. Criminal cases between Europeans and Basuto would be heard by the Governor's Agent or an official appointed by the Governor, advised by two or more chiefs appointed by the Paramount. If, however, the victim were not a Mosuto the governor could have the offender tried by a Cape Court. Sedition or treason were liable for trial before a superior Cape court. The paramount would attempt to prevent his people from thieving beyond the country's borders; he would also extradite offenders against whom a warrant had been issued. Reviving the old, contentious spoor law of the Eastern Frontier, the draft constitution laid down that if the spoor of animals stolen outside Basutoland led to a kraal inside the country, the chief of that district was responsible for delivering up the stolen animals.

Turning to political organisation, the constitution provided for a Council of Advice consisting of chiefs and headmen, half to be nominated by the Paramount and half by the Governor's Agent and holding office for three years unless removed by joint act of the Governor's Agent and the Paramount. The Council would be convened by the Governor's Agent at least once a year to discuss public business and submit a revenue and expenditure account for the preceding

⁵² Report for 1883 (Native Affairs Department 284).

financial year. It could adopt resolutions for suggested alteration in the laws of the country which after submission to and acceptance by the Governor, would be proclaimed by him. Except for amending the law so as to provide for this altered system of government, the existing laws were to remain in force till amended or repealed.

All internal affairs, except where otherwise stated, were to be subject to the Paramount who promised to observe the laws and allow nothing contrary to the principles of justice and humanity. Appeals from the chief's decisions in cases between Basuto were subject to conditions to be considered by the Council and approved of by the Governor. Hut tax was to be payable for expenses of government, and to be used exclusively in Basutoland. The rights of all Basuto were to be respected no matter what side they had taken in the recent rebellion. Finally, the Paramount promised to inform the Governor's Agent promptly of any important matters which might come to his attention or about which the Governor's Agent made enquiries.

The draft constitution was patently an attempt to rid the Cape of the Basutoland incubus short of total abandonment. While remaining the suzerain power, so as to fulfil its obligations to the Orange Free State under the Aliwal North Convention, the cost of running Basutoland was entirely removed, providing hut tax were regularly paid; and the difficulty of finding suitable personnel was almost wholly avoided. Europeans in Basutoland were placed beyond the confines of native jurisdiction, while capital crimes among the natives remained the preserve of the Cape courts. In spite of clear evidence of having been thrown together in a hurry, in spite of the conservative character of the Council of Advice which left the common people once more to the mercies of arbitrary rule unprotected by the magistrate, in spite of the burdens of administration it placed on the Basuto, this draft was a genuine attempt to lighten the Cape's burden without showing an irresponsible or selfish attitude towards the Basuto. One must accept Sauer's description of its liberal attributes as an altruistic and honest attempt to solve an apparently

insoluble problem; and Scanlen's wish to make a "new departure in the government of the Basutos"⁵³ and other native tribes under the Cape's control, as the immediate result of the report of the Commission on Native Laws and Customs whose findings were radically to influence Cape native policy and administration in the years to come.

Being a compromise, the constitution had the defects of such a solution. Final responsibility for Basutoland still rested with the Cape ministry; but the instruments for implementing such responsibility - the magistrates - were removed from the territory. The constitution had, further, two serious and more immediate drawbacks. Her Majesty's Government had not signified its approval,⁵⁴ nor had Masupha. Meanwhile, however, Sauer and Scanlen departed from Basutoland⁵⁵ secure in the belief that they had offered a morally defensible solution to the Basuto, whose salvation now lay in their own hands. Behind them they left Blyth to carry out a defensive operation. His first charge was to concentrate on composing the differences between the chiefs which had arisen as a result of the previous policy of divide and rule. Consequently his policy was a cautious one, designed to strengthen the paramount's position, and to protect the government from unnecessary humiliation, and based on the knowledge that the Cape's officials were in Basutoland "on sufferance."⁵⁶

By the end of April Blyth felt sufficient publicity had been given the new administrative proposals, and he called a Pitso at Matsieng on April 24th and 25th⁵⁷ to receive a definite reply to the government's plans. It was attended by Blyth and all his

⁵³ Stated at Morija. 28 March (G54-83).

⁵⁴ Secretary for Native Affairs to Acting Governor's Agent (28 April. G54-83).

⁵⁵ On April 3rd they were at Thaba N'chu (Cape Argus, Apr. 4, 1883).

⁵⁶ Moffat's Report for 1883 (Native Affairs Department 284). His first weeks in office were filled with anxiety over the awaited arrival of the compensation money.

⁵⁷ G8-83 (contd.)

magistrates,⁵⁸ as well as the chiefs Letsie, Maama, Bereng, Lerethodi and Masupha's son, Tebe, and some 2000 tribesmen.⁵⁹ On the first day it was apparent that the Basuto were still "not one on a single point", though all present professed a wish for the continuation of government control in Basutoland.⁶⁰

Where Orpen had equivocated Blyth was authoritative, and this Pitso had less, one observer commented⁶¹ "of the humbug and buffoonery of former Pitsos." "I have come as an Englishman and as an officer of the government" he told Letsie, "and want a straightforward answer." Under combined pressure of Blyth and the other chiefs, Letsie issued a statement. "I, Letsea (sic) as paramount chief of Basutoland, accept the regulations proposed by government, and I desire to remain with my people under the government. We want peace."⁶² Though this statement committed Letsie, Blyth advised the government against its being taken too seriously. Nevertheless all the magistrates including the Governor's Agent agreed on the necessity for the immediate nomination of the Council.⁶³

The outbreak of hostilities in the Leribe militated, however, against the effective introduction of the new proposals. Soon after the Pitso the usual alarming and contradictory reports began to filter through to the Cape.⁶⁴ There was widespread destruction of cornlands and fierce fighting which spilled across the border into the Free State, causing great alarm. On May 22nd, Letsie, Masupha, Jonathan, Joel, Lerethodi, Ramanella and about 5,000 unarmed⁶⁵ tribesmen met in an atmosphere of growing excitement at Thlotsi.⁶⁶

58 1.e: W.H.Surmon (Cornet Spruit), A.C.Bailie (Leribe), W.I.Nettelton (Thaba Bosiu, Mafeteng), J.Barrett (Quthing) and Ref.J.Moffat (Thaba Bosiu, Maseru).

59 Cape Argus, 28 Apr.1883.

60 Report to Secretary for Native Affairs (April 27th. G8-83).

61 Cape Argus (28 Apr.1883).

62 Acting Governor's Agent to Secretary for Native Affairs (27 Apr.1883. G3-83 contd.)

63 Acting Governor's Agent to Secretary for Native Affairs (April 25. A24-83).

64 Secretary for Native Affairs to Acting Governor's Agent (May 5,1883. A24A-83). Also Landdrost, Bethlehem (4th and 5th May. A24-83).

65 Blyth attended only on condition they were unarmed (Cape Argus, 26 May)

66 Acting Governor's Agent to Secretary for Native Affairs, May 22 (A24-83). Also (A8-83 contd.)

With Bailie and the Rev. Coillard backing him up, Lerothodi persuaded his father ⁶⁷ to give a decision on the disputed Leribe chieftainship, in which Jonathan was recognized as the rightful chief. In addition, Blyth took a firmer stand on the Leribe Loyals problem than Orpen had done, censuring Joel for his atrocities in Jonathan's village, and pointing out to the government the danger of its earlier policy. ".... it is a very serious question, deeply affecting our future position amongst all native tribes," he warned, "how far the government is justified in allowing a section of a tribe and their chief who have fulfilled their duties loyally to the government, to be murdered and destroyed by overwhelming numbers of rebels." ⁶⁸

The absence of the three principal rebel chiefs at the Matsieng pitso on April 24th and the government's failure to protect the Leribe Loyals, had, however, been a clear indication that the draft constitution could not be regarded as a final solution. In anticipation of failure in this direction, on May 1st, Seanlen sent a minute to his Ministers, setting out the main developments in the situation at this stage ⁶⁹ and the country's possible future. The colony could not allow its existing unsatisfactory relationship with the Basuto to continue; withdrawal was inevitable, but would lead to worse chaos. The Basuto, Seanlen noted in his minute, wished to be placed under the direct rule of the Home Government, from which, it was maintained, they had been transferred to Colonial rule without their consent or knowledge. ⁷⁰ The Cape Ministry therefore felt Her Majesty's Government should take action before the Cape abandoned Basutoland.

Commenting on Seanlen's minute, Lt.-General Leicester Smyth ⁷¹ traced the most important events in Basuto-White relations from 1843,

⁶⁷ Reports on Pitso, May 22, 23 and 26 (A8-83 contd.).

⁶⁸ Acting Governor's Agent to Secretary for Native Affairs (May 30. A8-83 contd.)

⁶⁹ A27-83.

⁷⁰ Ibid.

⁷¹ In a despatch to Derby (5 May, 1883. A27-83). He was Administrator while Robinson was in England discussing South African problems.

when Napier and Moshoeshoe had concluded a treaty of friendship, until the proclamation of the Basuto as British subjects on 12th March 1868.⁷²

Turning from the Basuto past, Smyth considered the future. The present relationship between the Cape government and the Basuto could no longer continue; but should Her Majesty's government abandon and disannex Basutoland, the Orange Free State government would expect arrangements "to be made relative to the obligations which were undertaken by the Convention of Aliwal North."⁷³ While Brand was against abandonment for security reasons, Letsie and many of the Basuto wished to keep the Imperial connection on emotional grounds. "... the whole structure of authority has been so shattered by the events of the last three years," Smyth warned, "that it could only be restored after some considerable time, and with the exercise of great tact and patience." Masupha would prove the chief difficulty; and it would be some time before the costs of administration could be met out of revenue.

Primarily to raise a loan to tide the Cape over its serious economic difficulties, but also to discuss Basutoland with the Colonial Secretary, the cabinet agreed to send its most capable member to England. Merriman was already in London⁷⁴ when Leicester Smyth's despatch arrived, and he immediately sent the Colonial Secretary, the Earl of Derby, a memorandum⁷⁵ on the "Present Situation of Affairs in Basutoland." He detailed the Basutoland annexation and Treaty of Aliwal North as Smyth and Robinson had done before him, adding the rider that many Cape colonists, allied

⁷² He also enclosed a memorandum from Robinson detailing the history of Basutoland up to 1871(A27-83).

⁷³ Seanlen's meeting with Brand at Rouxville on March 13th (Cape Argus, 15 March 1883) had clearly indicated the Orange Free State intended to maintain this hold over the British government.

⁷⁴ Cape Argus (May 29) reported his arrival. In a letter to his mother written on June 14 ("Selections from the Correspondence of J.X.Merriman", Vol.1, p.131) he mentions having been in England for 24 days.

⁷⁵ 29 May 1883 (A27-83).

to the Free State burghers "in blood and feeling" regarded Aliwal North as "a most unwarrantable interference between criminals and their just punishment and an act of spoliation and oppression towards a weak state in the interest of the coloured races."

In all these negotiations, Merriman argued, the Cape had had no part at all for parliament did not even debate the matter. The Cape was neither directly nor indirectly a party to the convention with the Orange Free State which was wholly an act of Her Majesty's government, accepted by the Free State because Wodehouse guaranteed them a tranquil frontier. The Basuto had prospered and the Orange Free State enjoyed a border security "almost wholly unprecedented in the history of European settlement in South Africa," until the Proclamation of the Peace Preservation Act. English public opinion had disapproved of the resultant war against a people so obviously capable of improvement. Unfortunately the Basuto were aware of this disapproval and the colonists felt their failure was due largely to this encouragement.

With the peace following the Award, the present government took office. Holding "moderate" views on native affairs, and consistently opposed to the policy leading to the Rebellion, for two years the existing ministry had unsuccessfully used every means of compromise to put Basutoland on a secure footing without abrogating the obligations "created by colonial action." It now acknowledged its failure to restore order and believing it would be "mischievous" to retain a territory it could not control, pressed for the repeal of the Annexation Act. As this step was to be implemented within a few weeks⁷⁶ the Cape Government was notifying Her Majesty's government, as one of the contracting parties in the Aliwal North Convention, because the Orange Free State would justly expect the Imperial government to fulfil its treaty obligations. Failing the British government's acceptance of responsibility for the Basuto as British subjects

⁷⁶ And it could be done, as this was an Act of the Cape parliament.

after disannexation, Merriman assumed steps would be taken to repeal the Convention of Aliwal North. Neglect of these steps, he presumed, would involve the British in numerous claims for compensation resulting from Basuto depredations.

Abandonment, and the resultant repudiation of Aliwal North would, he warned, be regarded in South Africa as the impending severance of the Imperial connection. Some would regard it as a method of settling native and other questions "diametrically opposed to all the traditions of the Empire..." Abandonment of Basutoland, he hazarded, would be seen "as a preliminary step to the abandonment of South Africa as an Imperial possession."

If, however, abandonment were rejected, it was important for peace that there be no break in the continuity of Basuto administration so as to cause complications with the Orange Free State. Bound up with the Basuto issue was the question of all the native territories between the Cape and Natal. The Basuto claimed the land across the Drakensberg into East Griqualand; abandonment could cause further strife in this area. Tembuland and St. John's River⁷⁷ had been formally annexed to the Empire but not the Cape and were governed under a curious anomaly by which the Cape parliament provided the funds while the governor ruled, nominally, without reference to the former. The Cape parliament, he suggested, might even refuse to complete the annexation of these territories.

The best solution, he therefore felt, would be for the Imperial government to assume control of all the native dependencies of the colony comprising Basutoland, Fingoland, Tembuland, East Griqualand and St. Johns which could be governed as one contiguous territory with the Cape and even Natal contributing to its upkeep. The area could be governed on Grey's Ciskei plan, the most successful attempt so far to govern black and white together.

Two courses, he summed up, were thus left to Her Majesty's government, abandonment or assumption of responsibility. The former

⁷⁷ Modern Transkei and Pondoland.

would be disastrous for the whole of South Africa and a breach of the treaty obligations towards the Orange Free State. If the second course were adopted, it would be best to consider Basutoland as part of all the native dependencies from the Kei to the Natal border, governed under the special conditions set out above, which would remove native affairs from the arena of local politics.

Merriman's memorandum is the best case put forward for disannexation by a master of the art of politics. It played, with a logical virtuoscity, on all the aspects of Britain's colonial administration - both those she was proud of and those she wished to forget. By mentioning the withdrawal of Imperial influence it touched the sore point of Gladstone's ill-timed retrocession of the Transvaal. It fastened, particularly, on the two basic premises of Victorian England, its fairplay and integrity, and their accompanying corollary, to effect good works on the cheap. By shrewdly putting his demands high, Merriman ensured that, while the British government would refuse to annex the Transkeian territories for which it had no responsibility, it would at least take the one obligation it had incurred under Aliwal North.⁷⁸

Lord Derby replied to Merriman early in June⁷⁹ denying Her Majesty's government owed any obligations either to the Basuto or the Orange Free State but expressing the Imperial Government's willingness "to test provisionally, and for a time, the sincerity of the assurance that the Basuto desire to come again under the Crown...." The conditions of the offer were that the Basuto should pay their taxes and obey the High Commissioner; that the Cape in the Disannexation Act should agree to pay the High Commissioner all the customs accruing from imports into Basutoland, plus a further sum for administrative expenses; and that the Orange Free State if requested, should establish a frontier force for the prevention of Basuto depredations.

⁷⁸ Merriman on the other hand, may have believed, like Robinson, that the Cape had to get rid of both Basutoland and the Transkeian territories. (Robinson to Merriman.11 Sept.1883. Merriman Papers).

⁷⁹ C3708, p.21.

In his comments on Derby's draft proposals,⁸⁰ Merriman pointed out what he felt would be probable points of disagreement between the Cape and Imperial governments. To Derby's contention that annexation had been agreed on in the Cape parliament without Imperial pressure, Merriman correctly answered that as the Cape at the time did not enjoy Responsible Government, the Annexation Bill was introduced and carried by an executive wholly responsible to the Imperial government.

On the contentious question of the Imperial Government's obligations to the Orange Free State, Merriman felt Derby's proposals would receive little sympathy in South Africa. The terms of Aliwal North definitely bound the contracting parties to the mutual arrest of criminals and the pursuit of stolen stock - "two obligations which infer and cover the whole system of government among a tribe like the Basutos." The Cape had failed to fulfil these two obligations, but the failure in no wise affected the Free State, who until 1880 had been able to maintain order on their frontier and would do so again in normal circumstances. Insistence on the customs dues, Merriman also felt, would prevent the settlement of the issue, for no government would risk defeat by introducing such a proposition in the Legislature. Basutoland had already cost the colony over £3 million, the annual charge on the debt being £165,000 - a burden incurred "in pursuing a policy which, however mistaken it may be held to be, was in the first instance recommended to the Colony by the representative of the Imperial Government."⁸¹ To meet its responsibilities towards the native tribes under its control was a tax on the colony far beyond its resources; he therefore asked Derby not to press a point the Colony could not fulfil.

⁸⁰ June 11 (Ibid. p.22). Derby asked for Merriman's opinion in his June 5th despatch.

⁸¹ i.e. Frere.

After further meetings with Robinson and Merriman⁸² the Colonial Office notified the latter⁸³ that Her Majesty's government had sanctioned Derby to withdraw the stipulation that the Colony pay a "further annual sum as might be required beyond the customs and other revenue of Basutoland for the maintenance of a frontier force." In its place the Imperial Government promised that if the Cape parliament would agree to the arrangement concerning the customs receipts, Her Majesty's government would "be prepared to consider the charges which the proposed transfer of Basutoland would entail and the sufficiency of the probably revenue of the territory to sustain these charges."

Merriman was in a cheerful mood when he left England.⁸⁴ His mission, as he wrote to his mother⁸⁵ had "been successful beyond my wildest hopes, and that whereas a month ago everyone scouted the idea of the Home Government looking at the Basutos in any shape - and especially Lord Derby - they have now made us a very fair offer, and will, I think, go even further if we press them."

The Colonial Office's decision to see how far the Cape could be relieved of its responsibilities was communicated by Derby to Smyth on June 14.⁸⁶ In it, he denied that the Aliwal North Convention had been an undertaking by the British government to accept "sole responsibility for the peace of a common frontier." By the annexation in 1871 the Cape had accepted the Crown's obligations under Aliwal North. The question was, if Her Majesty's government sanctioned the abrogation of the Cape's authority in Basutoland, would this oblige the Imperial Government to assume its earlier obligations?

82 Supported "by a deputation of gentlemen representing firms and companies more or less interested in South Africa." (Report of Standard Bank Manager. June 14, 1883).

83 14 June (C3708, p.36)

84 He left on the mailboat on June 15 (Cape Argus, 16 June 1883).

85 June 14 ("Selections from the Correspondence of J.X. Merriman". Vol.1, p.131). Captain Mills (June 28) wrote to Merriman he had "left the most favourable impression" (Ibid. p.132).

86 Derby to Smyth (A27-83).

Since most of the Basuto chiefs had been in rebellion and had known that to defy the High Commissioner was to break their allegiance to the Queen, Her Majesty's Government felt free to take a course consistent with the Empire's interests. Thus the Imperial government felt the Cape had not the right to abjure a "trust" it had accepted in 1871; nor that the Orange Free State could claim more than the British Government's undertaking a "fair share" of the maintenance of the frontier peace; and the Basuto had no right to hope that the old relationship with the Crown would be readily re-established.

Nevertheless, because of the "strenuous efforts" made and the heavy expense incurred, Derby grudgingly gave the Basuto the benefit of the doubt under the conditions agreed on with Merriman. He stressed that the British Government's acceptance of the Basuto burden was not permanent and subject to the behaviour of the other three parties to the agreement. This put paid to the ideas of the "deputation of gentlemen"⁸⁷ that the policy of the Imperial Government would move gradually towards responsibility for all the Cape's native tribes.

Meanwhile, in South Africa, the doubts expressed in some quarters "that the Basutos would readily come again under the direct management of the Imperial Government"⁸⁸ appeared to have their foundation in the behaviour of the tribe. After three months in office Blyth was forced to admit⁸⁹ that the cautious innovations introduced under the new constitution had hardly been successful. While Letsie could handle the tribe under normal circumstances, any crisis like Masupha's recalcitrance brought a request that the government "must deal with that." Letsie's equivocation was Blyth's chief cross, as it had been Griffith's and Orpen's. The negotiations with the Imperial government which had begun soon after the draft constitution was published, had naturally been discussed fully by a people as political as the Basuto, and the expectation of change made for unsettlement in all spheres.

Early in June⁹⁰ Joel again attacked Jonathan, most vehement of Loyals. Letsie had done nothing to implement his verdict on the Leribe chieftainship or to settle the boundaries there,⁹¹ and Jonathan claimed

87 See above (p.148).

88 Bank Manager's report, 14 June 1883. (Standard Bank Records).

89 To Secretary for Native Affairs (June 22. 08-83 contd.).

90 Cape Argus, 6 June 1883.

91 Acting Governor's Agent to Letsie (27 June. 08-83 contd.)

his people were making him suffer for his loyalty to the government. Loyalty, as Talleyrand said of treason, is a matter of timing. Had Molape lived long enough for Jonathan's part in the Rebellion to be forgotten, he might have managed to retain the Leribe chieftainship without difficulty.

Again the unrest brimmed over into the Free State. It was not, however, as severe as claimed by Brand,⁹² who was determined to use the situation to hold Britain to her obligations under Aliwal North.

Blyth, in turn, blamed the Free State for complicity in the unrest. He counted 28⁹³ places along the border between Quthing and Thloti where liquor was sold. Further he accused the Orange Free State of recognising Masupha's passes, thus endorsing the acts of a rebellious chief who was the cause of the disturbances.

The Cape government at this stage, however, was literally hanging on by the skin of its teeth, hoping Blyth's energy and influence would restrain the Basuto until the Assembly had considered Derby's proposals.⁹⁴

The Disannexation Bill was read for the first time on July 9, 1883⁹⁵ just after the arrival of Derby's June 14 despatch. The main condition of Imperial annexation affecting the Cape was the monetary payment, and to cover this condition the Colony was to pay the High Commissioner a sum agreed on by the two governments as an equivalent for customs and other revenue. In the subsequent debate Hofmeyr maintained that the government was bound to take the issue to the country before such a major decision were made. Merriman, who had rushed home from England so that disannexation could speedily be implemented, disagreed, claiming that the government could not afford to keep the country waiting. Even the Bond resolutions⁹⁶ had indicated that the feeling of the country ran in the direction of ridding the Colony of Basutoland, either through the Imperial Government's help or by abandonment. The latter could only lead to war; and the Colony had reached a stage where it needed peace to develop its resources.

92 To Smyth (July 12.A40-83). He enclosed a letter from Field Cornet Fisk dated July 7, referring to the unsatisfactory state of the border.

93 Memorandum for Premier from Secretary for Native Affairs (July 26. C3855, p.29) enclosing letters from Blyth dated June 11 and July 6.

94 Ministers to Administrator. July 18 (C3855, p.21).

95 Cape Argus, July 10.

96 e.g. at the Cradock Congress, September 1881, where it had been argued that the colonial boundary should be the Orange River "vanwaar hy nit Drakensberg kom tot waar hy in die see val". (Davenport, p.165).

The Second reading was carried by 36 votes to 28. The Bill proceeded to the Committee Stage, during which Holland's amendment, that the amount to be given to the Imperial Government should not exceed £20,000⁹⁷ was passed. Speaking in the Legislative Council Scanlen⁹⁸ maintained that this payment was only fair, considering that the Colony derived revenue from Basuto trade.

The Bill "to provide for the disannexation of Basutoland from the Colony of the Cape of Good Hope"⁹⁹ was passed by both houses of the Legislature in September 1883, and reserved by Lt.-General Smyth for Her Majesty's consent.¹⁰⁰

"Whereas it is desirable that Basutoland should cease to form part of the Colony of the Cape of Good Hope; and whereas Her Majesty's Imperial Government has expressed its willingness to provide for the future government of Basutoland upon certain conditions; and whereas it is expedient that due provision should be made for relieving this Colony from all responsibility for, in connexion with, the Government of Basutoland; be it enacted by the Governor of the Cape of Good Hope with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:- "

There followed the conditions of the act. Act 12 of 1871 was repealed; a sum not exceeding £20,000 "as may be hereafter from time to time agreed upon by and between Her Majesty's Imperial government and the government of this colony" was to be paid to the High Commissioner or some other officer of the Crown "as a contribution towards any deficiency that may arise in the revenues of the government of Basutoland". The Act was to come into operation, by proclamation of the governor following the Queen's assent, its short title being "The Basutoland Disannexation Act, 1883".

97 Cape Argus, 28 July 1883. The Boeren Beschermings Vereeniging members failed to vote with Upington on his clause that Colonial liabilities in Basutoland should be terminated. (Davenport, p.171).

98 Cape Argus, 8 Aug.1883.

99 C3855, pp.24-25.

100 Derby's June 14 despatch had indicated this reservation was expected. Smyth sent the act for assent on 4 Sept.1883. (Colonial Office to Scanlen, Nov.1. C3855, p.33).

In this brief, succinct act the Cape proposed to rid itself of the Basutoland load. The future of the Transkeian territories was left in abeyance, the government not wishing to press its luck too far with Her Majesty's government.¹⁰¹ In the Colony the Act was received with relief by the trading community who hoped that the Imperial Government's assumption of control would "produce a useful and prosperous community very capable of civilisation and large consumers of our productions and importations."¹⁰² Financial results of larger benefit to the Colony were also expected from the transfer. "...it will undoubtedly also improve the credit and the standing of the Colony in England, to which country we are bound to look for investors in Colonial loans and where the disquieting influence of rumours from the Colony of native disturbances has gone far to prejudice attempts to successfully place large issues of loans still to be floated for Railway and other useful purposes."¹⁰³

In Basutoland the majority of the people received the news of the transfer with satisfaction,¹⁰⁴ except for Masupha who, as early as July had expressed his determination not to have anything to do with the Imperial government.¹⁰⁵ Ramanella and Joel, his two lieutenants, had no intention, however, of following him in this new foolishness. Joel particularly feared the increase in Jonathan's influence and was prepared to support the new government so as to hold fast to the gains he had made in the field.¹⁰⁶ Among the Europeans in the territory there was anxiety over the future,¹⁰⁷ caused by rumours that the Imperial Government might not take over "on the ground of want of unanimity of people and chiefs."¹⁰⁸ The price of grain fell sharply and consequently several traders closed their stores.

101 Seanlen in Assembly (Cape Argus, 15 Aug. 1883).

102 Standard Bank Manager's report (17 Aug. Standard Bank Records).

103 Ibid.

104 Cape Argus (22 Aug. 1883). "Joy" was the word used by Bailie (Native Affairs Department 284).

105 Cape Argus, July 19, 1883.

106 Cape Argus, Aug. 29, 1883.

107 Cape Argus, Ibid.

108 Cape Argus, Sept. 17, 1883.

In the Free State Brand continued his refrain of Basutoland's potential threat to his state. The British government, however, was not prepared to be stampeded into something which might prove an intolerable financial burden merely because of Brand's anxiety. Clause 2 of the Disannexation Act, it felt, could be construed as meaning that "no contribution shall be payable from the revenue of the Cape until after it has been ascertained that the revenue to be raised in Basutoland is inadequate for its government".¹⁰⁹ Her Majesty's Government had, however, consented to assume the government of Basutoland, if the colony paid the High Commissioner all customs received on goods imported into Basutoland or the equivalent, fixed at £20,000, irrespective of whether this fairly represented such customs revenue.

Derby now asked for an undertaking from the Colony that it would pay £5,000, quarterly, in advance, "on the understanding that if it shall be found practicable, from time to time, to dispense with any part of such payments, it will be refunded to the Cape Government".¹¹⁰

By this time Scanlen had arrived in London to negotiate a loan with Barings and also to conclude arrangements for the transfer, under the sober guidance of Sir Hercules Robinson. On behalf of the Cape government he agreed¹¹¹ to the condition mentioned in Derby's letter. He appealed to Derby to expedite the change-over so as to remove the cloud of anxiety and suspense hanging over both Basutoland and the Orange Free State.

The British Cabinet, however, was in no hurry to touch "a very disagreeably hot potato";¹¹² but for the Cape a quick settlement was

¹⁰⁹ Colonial Office to T.C.Scanlen, Nov.1,1883 (C3855, p.33).

¹¹⁰ If hut tax were assiduously collected and economy used in running the country, the Cape government might get back some of this amount. (Colonial Office to Robinson, 12 Nov. C3855, p.39). The financial arrangements were made on Robinson's advice.(Robinson to Merriman, 25 Oct.1883. Merriman Papers).

¹¹¹ Scanlen to Colonial Office (2 Nov.1883. C3855,p.33).

¹¹² Scanlen to Merriman. (20 Dec.1883. Merriman Papers).

essential, particularly in view of the forthcoming elections.¹¹³ At the same time Scanlen, trying now to float a loan with the Bank of England, was terrified of imperilling this delicate financial issue by inept handling of the Basutoland arrangements.¹¹⁴

One further reason for delay remained. The Cape government having agreed to the financial stipulation, and the Orange Free State having expressed its willingness to maintain law and order on its side of the border, only the formal Basuto acceptance of Imperial rule had to be obtained. Robinson was in favour of an immediate referendum on the question,¹¹⁵ a simple "yes" or "no" without further discussions or negotiations, preferably before Scanlen left England.

Anticipating an affirmative reply by the Basuto, the Colonial Office asked for Robinson's advice on the future administration of Basutoland. The Governor¹¹⁶ estimated that some £10,000 collected from hut tax and other sources together with the Cape's contribution of £20,000 would be enough probably to meet the "cost of the simple administrative system" at first planned, providing the Resident Commissioner were the right person.¹¹⁷ Any revenue in excess of the basic £30,000 could then be used for schools, public works etc. Thus Robinson envisaged the first years of Imperial rule purely as a defensive operation to maintain order on the frontier and protect life and property within the country, while the Basuto were encouraged to establish a system of local self-government stable enough to allow them to settle internal disputes. "The whole structure of authority in Basutoland has been broken down by the events of the last three years, and unless great judgment, tact, forbearance and above all

¹¹³ Scanlen to Merriman. (22 Nov.1883. Merriman Papers).

¹¹⁴ Scanlen to Merriman. (13 Dec.1883. Ibid.)

¹¹⁵ Robinson to Merriman. (Nov.8,1883. Merriman Papers).

¹¹⁶ To Colonial Office (Nov.13. C3855, p.40).

¹¹⁷ Civil government, police and gaols alone would absorb this revenue.

patience are shown in building the house up again" he wisely noted, "as it were stone by stone, Her Majesty's government may at any time find themselves reduced to the choice of retiring from the country in the face of defiance, or of sending in a considerable force to subdue or expel some insubordinate chief or chiefs."

The Imperial government's message for the Basuto was sent to Smyth on November 24th.¹¹⁸ The question it asked was, should the Home Government accept "direct charge" of Basutoland's government as before 1871, or should the Basuto "be allowed to revert to the position they were in before 1868, when, at their earnest entreaty, the Queen accepted them as British subjects, as the only way of saving them from extinction as a tribe? The Basutos have of late shown but little gratitude for the disinterested consideration which led the Queen to extend over them the protection of the British flag. When they were at war with the colony, they invited¹¹⁹ the High Commissioner to arbitrate between them, but his award, although accepted by the Basuto people, was in a great measure never fulfilled by them. Her Majesty's government are therefore under no obligation to resume their government or protection. But the Queen fears they are not strong enough to stand alone. If left to themselves, the future of the Basuto nation will not be long.... Before deciding, therefore, on the course which the Queen's government will take as regards the future, they desire to put the Basuto chiefs and people assembled in a national Pitso, the following questions: Do you desire to remain British subjects under the direct government of the Queen, and if so, do you undertake to be obedient to the laws and orders of Her Majesty's High Commissioner, under whose authority you would be placed, and to pay a hut tax of ten shillings in aid of the administrative expenses of your country?..... Her Majesty's Government ask for plain, straightforward answers, Yes or No, to these simple

¹¹⁸ C3855, p.43.

¹¹⁹ See above. The High Commissioner, in fact, offered his services.

questions. If you can say 'yes' the government ask further 'are you united?' The Queen does not want unwilling subjects. Her Majesty's Government cannot take over a divided people." ¹²⁰

The Pitso to consider this ultimatum was held on Thursday, November 29th 1883. ¹²¹ Ramanella, Masupha and Joel failed to attend though the last-named was represented by two sons.

In its reply ¹²² the tribe affirmed that it earnestly desired to remain British subjects, under the direct government of Her Majesty the Queen, obedient to her laws and officers and willing to pay an annual 10/- hut tax. When Masupha failed to add his consent as an indication of unity, the Paramount wrote to Blyth begging the Imperial government not to abandon the Basuto because of his brother. ¹²³

"Abandon me not, even although Masupha refuses to follow me. Abandonment means our complete destruction. We do not want our independence. Listen Queen to my earnest prayer; I and my people will follow faithfully wherever you lead."

On December 5th ¹²⁴ Masupha held his own Pitso, declaring his complete independence and refusal to accept a magistrate though traders would be welcome. ¹²⁵ He was still defying Letsie on December 17th ¹²⁶ when Leicester-Smyth received Derby's communication ¹²⁷ finally settling Basutoland's fate. "....the Queen's government have determined to resume the direct rule of the tribe. They trust the Basuto will by their future conduct evince their appreciation of the disinterested consideration which has led Her Majesty to continue to them the protection of the British flag. They must be well aware that,

¹²⁰ "It is the glory of the British empire" enthused the Cape Argus in an editorial on this statement, "that the Queen rules over no unwilling subjects." (Nov.30,1883).

¹²¹ Leicester-Smyth to Derby, enclosing Blyth's report of Nov.30. (C3855, p.45).

¹²² C3855, p.45.

¹²³ Sent by Leicester-Smyth to Derby (Dec.3. C3855, p.45). On 11 February 1884 (Native Affairs Department 284) Letsie informed Blyth that he was still unsuccessful in breaking down Masupha and Ramanelle's intransigence. For them, he wrote "the Queen's government is a cave which has fallen upon those who took refuge in it."

¹²⁴ Blyth to Leicester-Smyth (Dec.9. C3855, p.47).

¹²⁵ Cape Argus, 13 Dec.1883. He continued to defy the British until 1886 when he asked for a magistrate (Lagden II. p.575).

¹²⁶ Cape Argus, December 17.

¹²⁷ Dec.17(C3855, p.48). Because of a smallpox outbreak the tribe was not called to a Pitso to hear the news, but was informed through Letsie. (High Commissioner, Cape Town to Blyth, Dec.18, 1883, C3855, p.46).

in allowing Basutoland to remain a portion of the Empire the Queen is influenced by no selfish motive. The safety, welfare and contentment of the Basutos are her sole aim; their gratitude her only possible reward."

Thus the British government resumed control in the spirit of bestowing a favour, an attitude far likelier to succeed with the Basuto at this stage than any of the attempts by the Cape government. As Robinson had emphasized¹²⁸ Basutoland was a house that had to be rebuilt from the foundations; and the Imperial government made it plain to the Basuto that unless they helped in the building, the house would be left half-finished.

The Colony thankfully received the news on December 18th.¹²⁹ "All that is of advantage to us in Basutoland remains", rejoiced one commentator.¹³⁰ "A grain and labour supply for the Diamond fields, a trading outlet for the Border merchants ... and with the customs, which we shall continue to levy on the trade that a renewal of peace and security will cause to flourish as of old, we shall have a very handsome return for the contribution which we have agreed to pay to the Imperial Government . . . the British government, by means of its accumulated capital ... can do cheaply and easily that which it is ruinous and almost impossible for us to attempt." Brand, too, was relieved of a heavy load. Stable government was a pre-requisite for border peace; and because the Free State's grain supply came largely from Basutoland, the economy of the Republic was closely dependent on her neighbour's productivity.

While Colonel Marshall Clarke,¹³¹ the first Resident Commissioner appointed by the Imperial Government, received instructions

¹²⁸ See above p.155.

¹²⁹ Cape Argus, 18 Dec.1883.

¹³⁰ Cape Argus editor. (Ibid.)

¹³¹ Robinson persuaded him to take the post. (Robinson to Merriman, 13 Dec.1883. Merriman Papers). He had accompanied Shepstone to the Transvaal in 1877 and taken part in the Sekukuni and Majuba campaigns, being appointed Quthing magistrate in 1881. (Lagden II.p.97)

prior to his assumption of office in March 1884,¹³² the Colonial government retained control over Basutoland¹³³ to prevent, according to Scanlen, Her Majesty's Government doing "what they like, when they like, careless of possible results."¹³⁴

Clarke's instructions¹³⁵ placed him under the immediate orders of the High Commissioner. He was at first to attempt nothing more than the simple protection of life and property, and the maintenance of border peace. The Basuto were to be assisted and encouraged in an elementary scheme of internal self-government sufficient to suppress crime and settle inter-tribal disputes.

These instructions contained a total reversal of the precepts under which the Native Affairs Department had attempted to govern Basutoland. On the very day they were issued, the Order-in-Council giving the Queen's assent to the Disannexation Act was sent to Cape Town¹³⁶ thus ending - with "an epitaph written, and silence"¹³⁷ - what might have been a glorious chapter in South African history.

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- ¹³² Derby to Smyth, 17 Jan. 1884. (C3855, p. 56). Blyth handed over his duties as Acting Governor's Agent on March 18th, 1884. (Acting Governor's Agent to Secretary for Native Affairs. 18 March. Native Affairs Department 284). He was asked to resume office as Chief Magistrate of the Transkei (undated draft from Secretary for Native Affairs' office. Native Affairs Department 284). From a Native Affairs Department memo dated 7 May 1884 (Ibid.) it appears that all other officials not re-employed were to be dismissed with three months' salary.
- ¹³³ In November 1884 the accounts had still not satisfactorily been adjusted. (Native Affairs Department 284).
- ¹³⁴ Scanlen to Merriman (22 Nov. 1883. Merriman Papers).
- ¹³⁵ Derby to Col. Marshall Clarke C.M.G., dated 25 Jan. 1884 (C3855, p. 58). They were based on Robinson's suggestions of November 13.
- ¹³⁶ Derby to Smyth, 25 Jan. 1884 (Ibid.).
- ¹³⁷ Blyth's Report for 1883 (Native Affairs Department 284). "Basutoland for the last three years," he wrote, "has enjoyed such an unenviable notoriety that on the eve of leaving I trusted that no annual report would have been required but simply an epitaph written, and silence".

CHAPTER XI

In assessing the twelve years of Cape rule in Basutoland, the inevitable question arises - why did it fail? The answer is a two-fold one. It failed because of the shortcomings of successive Cape governments; it failed because of the attitude of the Basuto. The rôle of the British Colonial Office before Disannexation is not of prime importance - it may have caused a change in pace, but certainly not in direction.

From the first the Cape politicians were confused as to what their intentions were in Basutoland. The original British annexation envisaged the establishment of a native reserve, ruled by the Governor subject to parliament's veto, which was to be controlled by a seminal administrative structure, comprising a Resident and a small police force. These were the conditions under which the Basuto placed themselves in British hands.

The appointment of the four magistrates early in 1871 introduced a totally unexpected factor as far as the Basuto were concerned. For the Cape this was the logical extension of current thinking on native affairs, based on Grey's policy whose intention had been to win the natives to "civilization and Christianity"¹ by the implementation of definite administrative principles which were to give Cape native policy its specific quality.

These principles included the gradual replacement of the chief by a magistrate who would introduce European law while diplomatically avoiding the impression he was supplanting the chief; the payment of a salary to the chief to replace the fines formerly levied by him, which would make him a civil servant willingly participating in the new government; and the promise that the native territories would be self-supporting.

¹ Grey to Colonial Office, December 22, 1854. (Brookes: "History of Native Policy in South Africa". p.91)

As an adjunct to the political framework went the work of the missionaries and traders, implementing the policy in their own spheres.

The application of this basic "Grey policy" in Basutoland differed radically from its application in British Kaffraria (where it was first applied). Basutoland remained a separate entity in which was established the "whole framework of the subsequent Trans-keian political and administrative system....the best system for Native Administration in South Africa." ²

Why then, one asks, was the same policy such a dismal and humiliating failure in Basutoland? The answer lies in the practical application of the policy after 1872. Whereas both Moltene and Sprigg ostensibly intended to get rid of the chiefs - the one gradually, the other by "vigour" - in actual fact little of positive value was done. Replacing the chiefs entirely, by a corps of officials, would have entailed expense, and the Cape balked at spending money on a venture whose value was still apparent rather than real.

Thus the Moltene Ministry failed because its policy was too gradual at a time when the Basuto might have had to accept change because defeat in war had made resistance impossible. By the time Sprigg announced his intention of getting rid of all chiefs, the Basuto had experienced ten years of stability which helped obliterate the miseries of the 1860's. Prosperity, paradoxically, mobilised reaction, and Disarmament provided the rallying-call of such reaction. Finally the vacillations of the Scanlen ministry provided the coup de grace to the Cape's administration. The draft constitution was a complete velte face, for it proposed to throw the onus for ruling back on the chiefs with the minimum amount of control - which is what the British did after 1883, with results still evident in the year of independence.

2 Brookes. op.cit. p.100.

3 Brookes. op.cit. p.108.

One can, therefore, agree with Brookes who sees the Transkeian (i.e. Grey) system as "a coherent, intelligible, progressive and conscious evolution"³ - when applied to the Transkei. But in Basutoland, it redounds to the discredit of the Cape politicians, that they thought they were implementing this policy, and were not.

Turning to the tribe, one sees the effect of this incoherence on the chiefs. Successive governments attributed to Letsie functions and powers which he did not have even under Basuto law. The Basuto, as Waldemar Campbell says,⁴ were not "a compact unit under the paramount," and had ceased being so in Moshoeshoe's declining years. But Letsie knew his position as paramount rested on this fiction. There is nothing enigmatic about Letsie; the term "vacillating" applied to him by various officials is totally inaccurate. Letsie's rôle was one of balancing the traditional forces against the new administration; consequently inactivity was the keynote of his strategy. It is doubtful whether he positively played the government against Masupha, except possibly in the middle of the Disarmament crisis (i.e. July, 1880) when he temporarily lost control.

The same ambivalence and lack of insight (for which the magistrates are largely to blame) is noticeable in the government's attitude to the lesser chiefs. By confirming their right to remain in their districts, the administration gave legal sanction to what had previously been a matter of convenience. While the administration subscribed theoretically to a belief that the chiefs' powers should be reduced, in practice the chiefs were expected to use their influence with the tribe to help implement measures such as disarmament. The chiefs, consequently, clung to their traditional rights with tenacity, taking advantage of every shortfall between theory and practice, and aided by the well-known conservatism of the Basuto.

³ Brookes. op.cit. p.108.

⁴ "The South African Frontier 1865-1885. A study in Expansion". p.125.

Whether the Cape would finally have implemented its "civilising" policy and thus retained Basutoland, had Disarmament not given the forces of reaction a focus of disaffection, is one of the "ifs" that give history its special fascination. The historian can, however, only try and understand what actually happened. The history of Basutoland from 1871 to 1883 seems to indicate that the failure to pursue a coherent native policy in those years lost the Cape the territory.

APPENDIX I

Strahan to Kimberley. Nov. 9. 1880. (C2755).
 enclosing population figures and organisation

Population in 1875 - 127,000

<u>District</u>	<u>Magistrate station</u>	<u>Magistrate</u>	<u>Chief</u>	<u>Attitude</u>
Leribe	Leribe	Maj. C.H. Bell	(Jonathan (Joel	friendly rebel
Berea	Advance Post	C. G. Bell	Masupha	rebel
Thaba Bosiu	Maseru	H. L. Davies	Letsie	friendly
	Mafeteng	A.C. Bartley (sic)	Lerothodi	rebel
Cornet Spruit	Mohale's Hoek	W.H. Surmon	Moletsane	rebel
Quthing	Quthing	J. Austen	Tyali	rebel

[A.C. Bartley is a misprint of Barkly who was the son of the former Cape governor.]

APPENDIX II

French missionaries and stations in Basutoland ¹

S. Rolland, Bisseux and Lemue came to the Cape in 1829.
 Pellissier, 1831.
 E. Casalis, Arbousset and Gosselin, 1833.
 F. Daumas, 1835.
 H.M. Dyke, 1837 (ordained in Cape Town)(Germond - 1839).
 F. Maeder, 1838 (Germond - 1837).
 Joseph Maitin, 1842.
 D. Keck, 1844.
 Cochet and Frédoux, 1845.
 T. Jousse, 1850.
 A. Mabillo, and Germond, 1859.
 Coillard, 1858 (went to Zambesi 1877-9)(Germond - 1857).
 F. Ellenberger, Duvoisin, 1861.
 Dr D. E. Casalis, 1864.
 Preen, 1872.
 Kohler, 1873.
 H. Dieterlen, 1874.
 H. Dyke, 1877.
 Cochet (jnr.) 1877.
 Christol, Kruger 1882.

Missions set up

Morija, 1833 (burnt in 1858 by Orange Free State burghers).
 Thaba Bosiu, 1837.
 Berea, 1843.
 Ebeneser Leribe, 1859.
 Thabana Morena, 1861.
 Massitisi, 1866.

¹ C2021. Also Germond, "Chronicles of Basutoland" (p.525).

APPENDIX III

Leicester-Smyth to Derby, 5 May 1883. Enclosure 2¹

Revenue and Expenditure July 1, 1871 (date of annexation to 28 February 1883).

- - - - -

	<u>Revenue</u>	<u>Expenditure</u>
1871-2	£ 1,627. 11. 4	£ 5,346. 0. 5
1872-3	9,956. 13. 2	12,371. 6. 9
1873-4	15,074. 17. 5	11,666. 9. 6
1874-5	17,494. 14. 3	16,313. 11. 7
1875-6	15,466. 5. 9	13,547. 2. 2
1876-7	17,339. 0. 3	16,985. 16. -
1877-8	18,711. 10. 8	22,155. 14. 10
1878-9	15,530. 19. 6	18,654. 17. 4
1879-80	19,781. 19. 4	25,021. 0. 8
∅ 1880-81	589. 15. 9	19,545. 10. 6
1881-82	4,876. 10. 9	22,979. 5. 5
1882 - 28 Feb. 1883	4,311. 14. 7	15,254. 2. 9

The foregoing may be taken as substantially correct, as far as the records in the Audit office go, in connection with the arrear period that portion of the current year has been obtained from returns furnished from Basutoland.

A.F. Robertson. Accountant

Native Affairs office, 2nd May 1883.

∅ Effect of War on Revenue and Expenditure.²

Estimated Revenue	£34,115
Actual Revenue	589. 15s. 9d.
Estimated Expenditure	44,711
Actual Expenditure	19,545. 10s. 6d.

Hut Tax estimated to bring in £30,020, and licences £3,000, in fact brought in only £264. 10s. and £225 respectively.

1 A27-83.

2 080-82.

APPENDIX IV

Relationships of southern SOFHO Ruling House. (Names in Tswana orthography from notes by SCHAFER)

MONGACHANE PESTE MOTLOANE MONAHENG

- m 1. Khedu Ntsukanyane Kata (Fokeng)
 - MOSHWESHWE, MANDABANE, POSHODI, Mmamila
- 2. MmaMosengwa
- 3. MmaMehale
 - MOHALE, Mpepwa
- 4. Mma Mepedi
 - PAHLUS (MEPEDI)
- 5. MmaJobo
 - JOBO (LELOSA), TSIANE

MOSHWEHWE MONGACHANE PESTE

- m 1. Mmamela Seophophe Ntshli Modise Kata (Fokeng)
 - LETSIE (MOHATO), MOLAPO, Tswenathe, MASOPHA, MAJARA
- 2. MmaNoko Masekane (Hlakwana)
 - NEKO, Mmatlhapi
 - Ramosebhe Masekane (Hlakwana)
 - MAKGORALO
- 3. Mmamle Masekane Modise Kata (Fokeng)
 - SEKGONYANA
- 4. - MmaNtseane Masekane Modise Kata (Fokeng)
 - NTSANE
- 5. MmaTladi
 - TLADI (GEORGE)
- 6. MmaMosebetsi (Sia)
 - SOPHIA, TSEKLO
- 7. MmaJohannes
 - JOHANNES
- 8. MmaStefanus
 - STEFANUS
- 9. MmaMatsoso
 - MATSOSO (SAMUEL)
- 10. Mmametla Tsuali Raphule Molehe Koane Sekhame (TLOUNG)
 -
- 11. MmamKomote (Sia)
 - n.m.i.
- 12. MmaKibanyane Letsheka Masekane Modise (Fokeng)

LETSIE MOSHWESHWE MONGACHANE

- m 1. MmaSente MochaKisa Dibe Peste (by full sister of Moshweshwe i.e. first cousin)
- 2. Mantai Kgwebane (baRaMaribeng)
 - LEROPHODI, BERING, TENG

3. Motswa
- SEKHOTLO
4. Maruru (Mmamotena) LeKoro Kadi Sekake Modibedi
- MAAMA, SEKISO, Motena, MAKABANE
5. MmaLeshwane
- MPITI, NKWENE, MASOPHA
6. MmaMojela (sister of Lehloanya)
- MOJELA, MAFUTA, LEPOLESA
7. Mmapa (Louisa) Mahou Seaphephe Ntshli (PoKang)
- JOSIA
8. MmaShoepane
- TSIPTINANE, THAABE
9. MmaRafolotsane
- RAFOLOTSANE
10. MmaSekhobe
- SEKHOBHE, MOTSEKI
11. - MmaThaabe
- THAABE

APPENDIX V

NAD
284.LIST OF BASUTOLAND OFFICIALS WITH SALARIES etc. AS AT 18th MARCH 1884.

<u>Situation</u>	<u>Name</u>	<u>Salary per annum</u>	<u>Allowance per annum</u>	<u>Pay for three months</u>	<u>Appt.</u>
R.M.	W.H.Surmon	500		125	Fixed Est.
R.M.	S.Barrett	400	75	100	"
R.M.	W.J.Nettelton	450		112.10s.	
A.R.M.	A.C.Baillie	500		125	Fixed Est.
A.R.M.	J.S.Moffat	450		112.10s.	Prov. & Temporary
Clerk	J.E.Surmon	170		42.10s.	Fixed Est.
Accountant	J.Paisley	170	50	42.10s.	"
Clerk	H.B.Leonard	170		42.10s.	"
Clerk	C.E.H.Glasbrook	200		50	Prov. & Temporary
Clerk	J. Elliott	200		50	"
Clerk	T.P.Kennan	per diem 7.6.		34.10s.	"
Clerk	F.E.Moony	" " "		34.10s.	"
				871.10s.	

Maseru, 18 May, 1884.

NB. There are five interpreters, 1 at £10 p.m.,
2 at £5 p.m., 1 at £3 p.m., and 1 at 5/-
per diem.

LIST OF BASUTOLAND OFFICIALS WHOSE SERVICES HAVE ALREADY BEEN DISPENSED
WITH BY IMPERIAL GOVERNMENT

<u>Situation</u>	<u>Name</u>	<u>Salary per annum</u>	<u>Three months pay</u>	<u>Appointment</u>
R.M.	W.J.Nettelton	450	112.10	
R.M.	J.S.Moffat ø	450	112.10	Prov. & Temporary
Clerk	C.E.H.Glasbrook	200	50	"
Clerk	J. Elliott	200	50	"
A.R.M.	A.C.Baillie ø	500	125	Fixed Est.
Clerk	H.B.Leonard	170	26 18 fr. 10 Apr. to 6 June 84.	

ø Reported by C.O. Letter No 2/1147
of 19/5/84 as having handed
over their offices on 1st May 1884.

Maseru
18 May 1884.

27/5/84.

A.F.R.

APPENDIX VI

criminal cases, except those punishable by death, under the laws of the Cape Colony, which should be triable before three of the magistrates, and punishable under the laws of the Cape Colony.

On 6th November, 1871, by proclamation No. 4 of 1871, Sir H. Barkly provided that all acts which by the laws of the Cape Colony are held to be offences against person or property shall, due allowance being made for the circumstances of the country, be held to be offences and punishable accordingly.

This proclamation contained other regulations, those of which now in force are repealed in the subsequent proclamation by Sir H. Barkly of the 29th March, 1874, which contains the statute law now in force in Basutoland, and deals first with the

" Courts of Law."

It authorizes the creation of other magisterial districts by proclamation, and the appointment of acting magistrates; makes the courts of the resident magistrate courts of record, and their proceedings public; defines the limits of the magistrates' jurisdiction; also the crime of murder, with culpable homicide and theft; and appoints their punishments, among which a fine may be imposed for the crime of culpable homicide.

Rape, without being defined is made punishable by whipping and confiscation of property or imprisonment, with or without hard labour; while all other offences against the person or property are punishable by confiscation of all or part of the offenders' property, or imprisonment, or whipping, or both.

All acts which, by the laws of the Colony, are offences against person or property, shall (due allowance being made for the circumstances of the country) be held to be offences in Basutoland, and punishable as if committed in the Colony.

Any person forcibly compelling another to submit against his or her will to circumcision (lebollo), or any other like act or ceremony, and any one aiding in such circumcision or ceremony without the consent of the child's parent or guardian, shall be guilty of assault. Any one practising or attempting to practise witchcraft, and falsely accusing another of practising it, is called a rogue, and punishable by fine, confiscation of property, and imprisonment.

Persons domiciled in Basutoland, committing crimes out of it, may be punished in Basutoland, as if the offence had been there committed.

No female shall be subject to corporal punishment.

A return of all cases is to be sent to the chief magistrate.

Crimes punishable by death are triable before any three of the magistrates, and if they differ as to the verdict the accused shall be discharged.

No sentence of death shall be executed except upon warrant of the Governor.

In case of confiscation, the property shall be applied to purposes of Government, except so much of it as the presiding magistrate shall award to the injured party or the informer.

For every crime not capital, 36 lashes in addition to any other punishment may be awarded.

Magistrates have jurisdiction in all civil suits, which shall be dealt with according to the law of the Cape Colony, except where all the parties are natives, when it may be dealt with by native law, which in case of difference shall be that applicable to defendant.

The proceedings shall be the same as those in the court of the resident magistrate in the Colony.

In civil suits an appeal lies to the chief magistrate, if noted within fourteen days after this decision, and £1 deposited as security for costs, which shall be forfeited if appeal held frivolous or is abandoned; but otherwise it is paid to appellant.

Cases in which the imprisonment exceeds one month, or the fine or confiscated property exceeds £5, or any lashes are awarded, must be sent for review to the chief magistrate, who shall certify if the proceedings be in accordance with real and substantial justice, and may alter or reverse the sentence, and set aside or correct the proceedings, but shall have no power to increase the sentence.

Marriages.

Compulsory marriages are prohibited. Marriages by Christian ministers, or civil marriage officers, are as binding and have same effect as in the Cape Colony; and questions of divorce or separation between such spouses are decided before the chief magistrate by Cape law; but where any marriage took place before a Christian minister before 13th May, 1870 (the date of the regulations by Governor Wodehouse), questions of divorce arising out of such Christian marriage shall be tried and decided according to the laws and customs of the Basutos in force at the time of the marriage by any resident magistrate.

Persons married according to Basuto custom may register the first marriage with the resident magistrate of the district where it took place, or where the parties reside, and may also register the dowry cattle, provided the registration be within a month after the marriage.

A fee of 2s. 6d. in respect of all marriages. Divorces between parties married according to Basuto custom since 13th May, 1870, are triable by any resident magistrate, but the law is not specified.

Where a husband (married according to Cape law) afterwards takes another wife, according to Basuto custom, he shall be liable to the punishment of a bigamist by Cape law.

Any spouse married according to Cape law, and dying testate, questions as to recognition of his will and administration of the estate and property are regulated by Ordinance 104, or any other Cape law in force, so far as it is applicable to the circumstances of the country, the chief magistrate being substituted for the master.

If anyone so married dies intestate, questions of inheritance or guardianship shall, in case of Europeans, be decided by Cape law, and in case of natives, by Basuto custom.

If a husband married under native custom die, his wife may re-marry, but then the custody (khodiso) or guardianship (bodiso) of her children by her deceased husband shall be regulated by Basuto custom.

If spouses married under Basuto custom both become converts to Christianity, and are re-married by Cape law, the issue of both marriages come under operation of Cape law, but this shall not affect the rights of the children of either spouse born of a marriage with another woman by Basuto law. Twenty-one is the age of majority.

Tenure of Lands, Hut-Tax, Pounds, and Passes.

The Governor may allot the land for occupation of the members of the tribe, and divide the territory for that purpose into sub-divisions, nominating a headman to each, who shall submit a list of fit allottees to Governor's Agent, and each allottee according to Sir Henry Barkly's proclamation had to pay a hut-tax of 10s. a year for each hut for the occupation of a family, and in computing this tax ten shillings was due for each wife, whether she occupied a separate hut or not.

This tax was by Sir B. Frere's proclamation of 12th April, 1880, increased to £1, while the tax for each wife was abolished. The tax may be paid in money, grain, or stock; at value fixed yearly by Governor's Agent. The headman to be assistant tax-gatherer. If hut-tax be not paid, it may be recovered under judgment of the resident magistrate's court by sale of so much of the property as may suffice to cover the debt with expenses, and if payment cannot be got defaulter may be ejected or imprisoned for two months.

Every resident leaving Basutoland, without a pass from resident magistrate, is finable 20s. New arrivals must be reported within ten days by headman to resident magistrate, under a penalty of £5. Governor's Agent may establish pounds, and appoint poundmaster, and regulate pound fees.

Trading Regulations.

All traders must, under a penalty of £10, have licences for not more than a year, which, under Sir H. Barkly's proclamation, the Governor's Agent might refuse to grant or re-issue, while the licence may restrict the holder to trade in a particular place, or may allow moving about. But by Sir B. Frere's proclamation of 12th April, 1880, this power to refuse is repealed, and now the Governor's Agent may only refuse the renewal of the licence of any trader convicted twice before a magistrate of any breach of a Basutoland Regulation or Government Notice.

Where a trading licence is refused or forfeited the holder unless it shall have become liable to seizure may remove the materials of his buildings and his movables within three months; and failing this it may be removed or sold by Governor's Agent, and proceeds after paying expenses paid to the owner, who shall be entitled to compensation; but may, on paying every month in advance £1 go on trading for three months.

The sale of wine, beer, and spirituous liquor is prohibited under a penalty of £20 for first, and £40 for any subsequent offence, and forfeiture of his trading licence and of all the liquors found in his possession. A penalty of £20 and forfeiture of liquors is imposed upon those who bring liquors into Basutoland without a licence. Non-production of trading licence at request of police officer or person authorized to demand it by Government Agent is punishable by a £10 fine.

All trading stations, premises, or vehicle used for purposes of trade, are liable to examination by Governor's Agent or resident magistrate, under a penalty of £10 for obstruction.

All trading licences expired on 31st December, and those taken out before 30th June, cost £10, and after that date £5.

Conveyance of a licensed trader may pass by the regular roads between his residence and the boundaries of Basutoland.

£1 a month is payable for a hawker's licence, with or without a vehicle, and £1 for every other vehicle.

By Sir B. Frere's proclamation of 12th April, 1880, it was further provided that no hawker shall pursue his calling nearer than within a radius of a mile to any trading station, under a penalty of £10.

Those who enter Basutoland to buy corn from traders must obtain permit from resident magistrate, or officers in charge of police stations, and must on leaving get certificate from seller of quantity sold, and if the quantity found in their wagons exceeds this the trader is liable to a fine of 5s, for each surplus bushel, and the wagon and corn may be detained till the fine be paid. A licensed trader can only keep 200 animals, whether his own or not, at his station.

Transfer of any trading licence must be executed in presence of Governor's Agent, or his agent, or a magistrate, on payment of 2s. 6d. transfer fee.

Basutos carrying grain out of Basutoland must pay 2s. 6d. pass for each vehicle, and for each pack-horse, cow, ox, under a penalty of £1, and in default of payment are liable to one month's imprisonment.

Anyone who delivers any firearm or ammunition to any other without magistrate's written consent is liable to £500 fine or seven years' hard labour.

Anyone bringing firearms or ammunition into Basutoland without licence shall forfeit the articles to the Crown, and be liable to £100 fine, or imprisonment for two years.

Resident magistrates receiving applications for such licences may grant provisional licences till he receives reply from Governor's Agent.

Standards of weights and measures are same as in Colony. All penalties are recoverable before any resident magistrate by seizure and sale of defendant's property, when one-half shall in each case be granted to informer and the balance to the Crown.

The Cape duties on stamps and on transfer of immovables, and on sales by auction are payable in Basutoland, and the laws for the time being of the Cape Colony relating to posts, post-officers, or postage stamps, shall apply to Basutoland, provided that postage paid in Basutoland covers postage to all parts of the Colony.

On 4th March, 1879, Sir B. Frere, as Governor, by proclamation, declared that the crime of high treason, treason, and sedition, when committed within Basutoland, or by any one resident in Basutoland, shall be cognizable by the courts of the Cape Colony having jurisdiction to try and determine such cases arising in the Cape Colony. Under this proclamation, at a special circuit held at Aliwal North in January, 1880, many ringleaders in Morosi's rebellion were tried.

On 2nd February, 1880, Sir B. Frere, in proclaiming an amnesty to such rebel Baphutis as had been engaged in Morosi's rebellion, not being ringleaders, offered a pardon to those who surrendered to a magistrate and gave up their arms, provided that they placed themselves under contract for twelve months upon the railway or other public works at 10s. a month with rations.

By Sir B. Frere's proclamation of 12th April, 1880, it was further provided that at each seat of magistracy where there is a Government reserve, traders and others resident in Basutoland may, on application to the Governor's Agent, obtain a quitrent grant of one or two morgen of land; the quitrent to be at the rate of 10s. an acre, and its proceeds to be expended in improving the township at this seat of magistracy, and in case of traders residing at isolated stations and away from any Government reserve such traders may obtain (if they are in *bona fide* occupation of it, and have spent on it in buildings £150) a ten years' lease of from one to two morgen of land.

TRANSKEI AND GRIQUALAND EAST.

Act 38, 1877 (Transkeian Annexation Act) recites that by a resolution Parliament in 1875 resolved that this annexation was expedient, and on 12th June, 1876, the Queen, by Letters Patent under the Great Seal, authorized the Governor by proclamation to declare the same, but not until the Legislature passed a law providing that the territory become part of the Colony, subject to its laws, which might be modified either by proclamation or by statute, or by Act of Cape Parliament; and as it is expedient that the territory should become part of the Colony, but the natives occupying it are not sufficiently advanced in civilization and social progress to be admitted to the full responsibility imposed by the ordinary laws of the Colony, this Act provides that the Governor may proclaim a date from which the territory between the Bashee and the Kei Rivers, known as Fingoland and the Idutywa Reserve, and the territory between the Umata and the Umzimkulu, known as Nomansland, shall become part of the Cape Colony, and subject to the laws in force therein, except as the application of the same to the said respective territories may be modified by any such proclamation. The second section provides that these laws so modified may, until otherwise provided by Act of Parliament, be repealed and amended, and new laws made, which may also be repealed and amended by the Governor by proclamation. No Colonial Act shall apply unless by express words in an Act, or unless it be applied by proclamation in express words, and all such laws must be laid before both Houses. Under this Act, on 15th September, 1879, Sir B. Frere, as Governor and High Commissioner, issued a proclamation defining the boundaries of the Transkei, and on 17th September, 1879, another defining the boundaries of Griqualand East; and in both proclaimed regulations for the Government of these territories under Act, 1877. These regulations for Transkei and Griqualand East are similar to and are based upon the Basutoland Regulations, but both differ in several respects from those of Basutoland. It will be necessary here only to refer to those which differ from the Basutoland Regulations; thus—

Under the Transkei and Griqualand East Regulations as to Courts of Law:—

Culpable homicide is not specially punishable by a fine.

Rape again is expressly so punishable there.

Confiscation is in no case allowable.

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