

Sir Theophilus Shepstone and his Local Critics

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Sir,— My letter in your issue of the 29th January last has been criticised by the *Natal Witness*, the *Times of Natal*, and the *Advertiser*. These journals will naturally be looked upon by outsiders as entitled to special authority. They are conducted by men on the spot, who must be assumed to understand, more or less thoroughly, the subject they criticise.

I am sorry to be obliged in the present instance to demur to this foregone conclusion. In addition to matters of detail which I may have to notice, all their articles seem pervaded by the assumption that my letter was intended to propound a plan which I put forward as a permanent settlement of the native question, in opposition to that of President Reitz. Such an assumption is not complimentary to one's common sense, nor is it warranted by the letter itself.

The least thoughtful among us must know and see the accelerated pace at which change is now sweeping onward; that, therefore, no fixed or permanent plan is practicable; that whatever system or principle may be adopted as an outline of action, the condition of perpetual change will constantly demand administrative changes corresponding to that condition, guided by the main object of so improving and advancing the natives that their existence in the presence of the white man may be safe and profitable to both. Short cuts which ignore the great gulf that separates the social and political ideas of the two races must sooner or later bring about disaster. This is the only system that my experience and observation lead me to believe is practicable; but there must always be present the authority, able and ready, to make these changes when they are required. A system based upon the above principles was in full operation until the enactment of the Law No. 26, 1875. That law put a stop to all improvements not brought about by a specified process; this process could never be set in motion, consequently all assimilative advance has been arrested from that day to this. Even the mistakes of the enactment, and the untoward interpretations put upon it, have become crystallised; and the results, as far as I have been able to observe them, have been retrograde, perplexing, and unsatisfactory.

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I fully concede to the Editor of the *Witness* the right to hold and publish any opinion he chooses; but his description, of what he calls the 'main gist' of my letter, which he gives for the purpose, apparently, of discrediting it, is a kind of misrepresentation that does not come up to one's idea of legitimate journalism.

It would be tedious, besides answering no good purpose, to traverse all the instances of which I should feel entitled to complain; I shall, therefore, content myself with selecting one instance only, for which, I must, however, admit, the

Editor may have more excuse than the rest. I select this because it has afforded him the opportunity of casting doubt upon what everyone who would be a leader of public opinion in Natal should know to be undeniable fact; whatever the value of the fact may be. He describes me as urging that the natives here are the aborigines of the soil, and, therefore, have clear undeniable rights which may not be alienated or disturbed. He says I assume the possession of the land by our existing natives or their immediate ancestors. He reminds me that as far as Natal is concerned, this assertion is strenuously denied, and that those who do so have adduced no inconsiderable amount of proof in favour of what they allege.

Now the truth is that I made no allusion to the aboriginal rights of Natal natives to Natal soil. I assigned no particular locality to any particular tribe, either in Natal or out of it. What I did assume was that all South African tribes, enumerated, or referred to by President Reitz, were aborigines of South Africa, and, as such, had aboriginal rights to the soil of South Africa. Surely this is a self-evident proposition, and very different to what the Editor makes me responsible for.

But since he has introduced a subject which I had not thought of touching, and introduced it, too, with the remark, which, I suppose, is intended as a reproach, that 'as of old' I was begging the question, I may tell him plainly that the bulk of the native tribes in Natal is aboriginal, not only as being South African tribes, but that they are so, as far as Natal is concerned. I assert this to be the case, not from any foregone conclusion or prejudice; indeed, if the reverse were true our policy would be less difficult, but from evidence that cannot be controverted — evidence most laboriously collected from living witnesses during several years prior to the date of Governor Scott's despatch of the 26th Feb., 1864, which was transmitted to the Legislative Council in July, 1865. If the Editor will read that despatch with a little more attention than he appears to have given my letter he will gain a great deal of useful information. He will find appended to it lists of all the native tribes in Natal, with a description of the locality anciently occupied by each. He will find, too, that the great bulk of these are 'ancient tribes of the country, which never had any other home, so far as is necessary for us to trace their history, than the country now forming this colony, except during the turmoil and disruption caused by the ambitious acts of Chaka'.

The Editor asserts very early in his article that President Reitz has put 'very plainly and very boldly what are well known to be the ruling ideas of many colonists, and the bulk of those who are of Dutch extraction'. I am inclined to doubt this assertion. It does not appear from his article that the Editor has himself a very clear perception of the scope of the President's programme; his authority to speak for others can, therefore, scarcely be accepted; but if it be true, there could be no more complete justification for the anxiety which the Secretary of State shows to protect us against ourselves, in his treatment of the responsible government question now pending, than such a fact.

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The *Times of Natal*, Feb. 1, 1892

As to the article in the *Times of Natal*, Feb. 1, 1892, the Editor thinks that 'in matters of policy such an overwhelming knowledge of native manners, customs, and laws' as I possess is not supremely necessary. 'We have to deal with a practical subject,' he says, 'and it must be dealt with in a practical manner. South Africa

will have to settle its native problem sooner or later. It is obviously impossible that the present relations of whites and blacks can continue for an indefinite period.'

Suppose all this to be admitted, what solution would the Editor propose? What is the practical manner in which he would deal with this 'practical subject'? Does he mean to assert that the solution would be easier if we knew less than we do know of the peculiarities of the people whose presence creates the problem? He appeals to farmer experience and opinion as to the operation of the tribal system in the case of stock thefts. He says the natives 'protect each other, and unite to avoid detection; that they form as it were gigantic checks to assist each other in plundering the white farmers,' a most unjustifiable assertion; and then sums up a string of sensational statements with the very self-evident proposition, that 'when tribes unite to shelter criminals from the clutches of the law there can only be one opinion, that the system which allows it as an evil system'. No one will deny this proposition; but is the inference meant to be conveyed by it true? Can the Editor state one case while Natal has been a British colony in which 'tribes have united to shelter criminals'? It is an assumption for which he has no warrant. Such statements are calculated to estrange races, who, whether for good or for ill, must live together. The European race, guided by what it will consider the superior knowledge of an editor belonging to it, will believe and act upon its belief; the natives will see that whether innocent or guilty, they are equally blamed, and grow reckless. Surely the function of editor has moral responsibility serious enough attached to it to induce him to ascertain the truth of such statements before he makes them. He asks 'In how many cases are native informers found, and why is it next to impossible to get one native to give evidence against another in country cases?' The reason is, he says, 'that the native informer would be sent to coventry, at least by the members of his tribe, and his life rendered miserable and unendurable.' Is the reluctance to become informer peculiar to natives? Is the public virtue of the editor himself such as to compel him, should he see a crime committed by a European, to become one? Of course I quite understand that his duty would be clearer to him if the delinquent were a native. The difference between civilised and native law is very marked in this respect. Under the former a man may see the perpetration of a serious crime, pass on and keep silence with no more responsibility or compunction than his conscience might inflict, and that perhaps would not be very hard to bear. Under the latter such silence would be punishable. This law applies to all organised native communities. I do not, of course, include temporary squatters.

Perhaps I may be allowed to tender a little personal evidence on this matter. I presided for many years over the Combined Court, and tried many cases of both cattle and sheep-stealing. That court was established with its peculiar constitution, at my suggestion, to check stock thefts, knowing as I did from my experience on the Cape frontier how dangerous to the peace of the country the crime might become. I do not believe that one case in 50 was convicted on other than native evidence; nor do I remember one in which the chief, who sat as assessor, and who, in each case was the chief of the prisoner's tribe, was not inclined to severer punishment than the Magistrate or myself. Indeed it has happened in cases of second or third convictions that the chief has suggested the uselessness of letting such culprits live any longer.

It may be safely said that if only a very small proportion of what the Editor

avers with regard to the protection afforded by chiefs and tribes and locations to stock thefts were true, there would have been an end of cattle farming, together with the peace of the country, long ago. That there are stock thefts there can be no doubt; but to beat the air and grope in the dark for the root of the evil is not the cleverest way of tracing it.

The Editor denies without qualification my description of the position of the native chiefs in Natal. I 'enter into the domain of theory,' he says, 'the native chiefs should fill the bill which I have drawn up, but in practice they do not.'

I must, however, adhere to my description, nevertheless. It is, of course, easiest to write about that of which we know least; but let me assure him that although he would have to forego this advantage, a little more of the knowledge that he despises would do him no harm. In support of his denial he cites the common practice of sheep-stealing. 'How is it,' he asks, 'that we do not find the native chiefs correcting the criminal propensities of their followers, and handing them over to justice?' The answer is not far to seek. The country is studded with farms occupied by native tenants. These live under the aegis of the proprietors. They pay their rent, and the owner is satisfied. They are removed from the control of any chief, or direct supervision of any kind, and the proprietor very naturally resents all interference with the source of his income. They form small mixed communities, located, perhaps, in the neighbourhood of farmers, to whom, if they become stock thieves, they are a perpetual scourge. They of necessity protect each other; probably furnish labourers to the farms near them, who co-operate with the communities by intimidating the native servants on those farms who may not belong to them; and so they flourish upon what they steal, and the little they cultivate.

It is by this class of native that most of the stock thefts are committed. When ejected from one farm they will arrange for the occupation of another; but the last place they will think of going to is a recognised location, because they know that there they will enjoy no such immunity. I do not assert that thefts are not occasionally committed in locations, but the Editor will find on enquiry that they are far less frequent, and much more capable of detection. Another source of protection to these thievish communities is the disinclination which the farmers themselves naturally feel to interfere with the rights of ownership and tenant; they will grumble and bear a good deal, but they shrink from the onus of acting.

The Editor of the *Times of Natal* undertakes to interpret the words of President Reitz. He explains that there are other methods of breaking up locations than by summarily ejecting the natives therefrom. One of these methods has, he says, 'been mooted in Natal of breaking up locations by surveying them, dividing them into lots, and settling those lots in freehold upon the heads of kraals, to be disposed of *as the latter think fit!*' and a novel plan it is! What if the grantees thought fit to sell their grants to white men, as they most assuredly would? and what if the white purchasers should require the Government to respect its own title deeds by removing the natives from the land they had purchased? This would certainly be an effective as well as summary way of breaking up the locations; but such a questionable course is not likely to have been in the mind of the President. There is nothing furtive about his proposals, whatever else may be said of them.

The Editor thinks that the plan he has described would give a blow to the power of the chiefs, because it would take the land out of their hands. A little

more knowledge would have shown him that the land is not, and has not for many years been, in the hands of the chiefs, and that they have no more authority over the fee simple of it than any of their people. This appears to be the only practical suggestion which the Editor makes; but it is not an honest suggestion and, therefore, is unworthy of any consideration. We may be content to await President Reitz's own interpretation of his words.

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The *Natal Advertiser*, February 9.

It is disappointing to find, after reading that long article on the 'native problem' in the *Natal Advertiser* of the 9th February, that it does not rise above the level of a theoretical essay; that it shows no special acquaintance with the problem it professes to discuss, and therefore that it sheds no light upon the most serious of South African questions. It condemns completely and without hesitation everything that has been done in native management by both colonies from the beginning until now; but it is not difficult to condemn, and besides that it has the merit of being popular. Towards the two republics the Editor uses language which must be held to be both unfair and unjust, because he omits to take into account the circumstances of their existence, and he institutes comparisons which are a little too pharisaical to be in the best of taste.

I find one, and only one, practical suggestion in this article, and strangely enough, although it is recommended as a new departure, it is one that has been acted upon from the earliest days of the colony. It is embedded, however, in a most unpractical question. The Editor asks 'if they (the natives) can be brought — as they have been — to recognise in the Governor their supreme chief, without his, however, recognising their distinct nationality, why cannot they further be taught to see in the Magistrate their local chief, while he on his part purposely ignores any recognition of their tribal organisation?' The gist of this suggestion for the supposed new departure is to induce the natives to look past their own chiefs to the Government and its officers as wielding the supreme authority. The Editor does not, of course, know, but there is no excuse for his not knowing, that the natives all do this already, and that for more than 40 years they have appreciated the protection which the putting in practice of this suggestion has afforded them. They appeal from their chiefs to their magistrates, and from their magistrates to higher courts, still further removed from their chiefs; or they may pass by their chiefs, in the first instance, and go direct to magistrates if they choose. Such is the practical working of the suggestion.

There remains to be noticed the impractical part of the Editor's question. It is difficult to see how the Governor can avoid recognising the 'distinct nationality' of a people over whom he is appointed Supreme Chief because of their distinct nationality. The Editor leads us to infer that he does. To ordinary minds it seems impossible for even a Governor to ignore so patent a fact; but suppose the feat to be accomplished, what good would be gained by it?

Then, again, why should the magistrates 'purposely ignore any recognition of tribal organisation'? The immediate results would be to render the administration of the government of their districts impossible. As well might they 'purposely ignore any recognition' of family names among Europeans, and issue their summonses to Tom, Dick or Harry, blank. People living in towns frequently complain of the desertion of their native servants. They go; no one knows where, and then there is no remedy. The reason in most cases is the systematic

ignoring of the tribal organisation by the employers. Durban has tried to remedy this by establishing a system of registration. It is a practical remedy. Whether it has brought any improvement I am not aware. If it has not, either the registration is imperfect or the native labourers of Durban have their homes outside the colony, or registration is neglected.

The Editor proceeds to say: 'Having thus brought the natives within the pale of civilisation, let us then proceed to raise them gradually and steadily by means of well applied technical education'. If by the establishment at present, of what he suggests as something new, we should bring our natives 'within the pale of civilisation', Natal may fairly claim, upon the Editor's own showing, and despite his condemnation, that it achieved this more than 40 years ago. As to the technical education which he recommends, a little more definition would have made his meaning clearer; but as I understand it, I must ask where is the colony to get the thousands upon thousands sterling that would be annually required for such a gigantic enterprise? And in the light of that question I am bound to decide that the suggestion is chimerical in the extreme. For such instruction the colony must depend, as it ever has depended, upon the thousands of points of contact that take place daily between the races in their capacities of employer and employed. This is the most practical and therefore the most useful technical education that can be given; because it will enable the natives ultimately, if they are capable of doing so, to rise naturally and healthily to the conditions of a more civilised and artificial life. It is the business of the Government to regulate this in so far only as not to interfere with the healthy development of the process. The great teachers are, and ever will be, the colonists themselves.

One more point I wish to notice; the Editor seems to believe that so long as the natives continue under their present form of government they are a huge organisation, and that until they have advanced very much further out of their barbarism they will continue to be a constant element of danger. I cannot help thinking that if the Editor would look at the matter in the light shed by daily facts in Natal, he would think a little differently. All tribes, are, like families, minor organisations. They cherish the special rivalries, jealousies, and feuds which usually exist between them; and bitter enough these frequently are. They are kept within bounds by the central authority to which they all look up. It is obvious that so long as this lasts the only power that could give coherence to any 'huge organisation' among the tribes must be that central authority. This authority can be superseded only by a feeling, or apprehension strong enough to overwhelm tribal aversions. Such a condition could be brought about by some huge mistake or injustice, or by the provocation produced by a policy, the obvious aim of which was their oppression as a race, so that the bringing about of such a condition is very much in our own hands. It would, therefore, be the wildest of experiments to attempt to break up their tribal organisation. A state of tutelage such as theirs is, requires more or less of special control. Their tribal organisation places this in the hands of the Government. Our system of civilised laws supplies no such facility.

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My letter, that has evoked so much local criticism, contains nothing that was intended to be a defence of what my critics choose to call my native policy. Its object was, as appears on the face of it, to protest, on the grounds set forth therein, against President Reitz's paper in the Cape Magazine. It is, perhaps,

possible that the results which the President says should be the aim of civilised man in South Africa may in the end become, more or less, what he wishes them to be; but if they do, it will be by the operation of irresistible natural laws; and the process need not be embittered by proclaiming ourselves successful robbers and potential tyrants.

When civilised government is called upon to undertake the control of an inferior race, and that race is found to be possessed of an organisation, built up by its own needs; suited to its ideas, habits, and circumstances, including the most effective machinery for its internal control, and easily adaptable to our civilised methods; when, moreover, it is optional with such government to take into its own hands that organisation, and to ensure that the control it affords shall be wielded by itself, it seems the height of folly to reject it for the illogical reason that its methods are not those of our higher civilisation. How long the organisation should last must depend upon its value and the use that can be made of it. The object being always to replace in it that which, from time to time, may become obsolete or decayed, by what civilisation may judge wise and prudent, the methods in it repugnant to civilisation having been eliminated from the beginning. One thing is beyond doubt that to suppress native management by their own laws in Natal would be to release every native in it from all the special personal control that he fully understands, that he so much needs, and that he has all his life looked up to. Civilisation is advancing with rapid strides in these days. When its methods are found more suited to changed circumstances, the natives themselves will be glad to adopt them. Tribalism and chieftainship having become unnecessary and inconvenient to all concerned may then be left to die out for lack of use.

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I had written thus far and was waiting for the exciting discussions on responsible government to subside, when a second article on the native question appeared in the *Natal Advertiser* of the 4th inst., inspired by a letter from Mr. John W. McKenzie, of Richmond. The Editor describes the letter as a 'scathing reply to my contentions,' and the writer of it as a colonist in close touch with the native question. What the close touch consists in does not appear. It has been close enough, however, to satisfy the Editor, and to induce him to adopt Mr. McKenzie's questions as well as his views. Our natives, he asserts, are 'no better today, in any sense of the word than they were 50 years ago,' and that 'they could not be in a much worse condition of stagnation than they are to-day.' These are assertions which may be allowed to pass for what they are worth. Possibly the maker of them was not born 50 years ago. The editor tries to justify them by putting several questions, to which short answers may perhaps be found.

'How many of the barbarian customs have been destroyed?' he asks. The answer is that every custom that is revolting to civilised ideas is rendered illegal, and the practice of it punishable. I exclude of course polygamy. Judging from what I see and know, I am not quite sure that it should be ranked among customs revolting to civilised ideas, or whether its morality or its inconvenience is most objected to by civilised man. He next asks 'how much higher are they (the natives) in the scale of civilisation?' What is civilisation? What are the Editor's and Mr. McKenzie's ideals of civilisation? Let us have their graduated scale with clear definition, and the relative positions will soon be found.

Again, he asks, 'How many have received any education or training?' Here

again definition is necessary; but in any case he must be referred to the Council of Education, to the various religious bodies whose money and energies are expended among and for the native population of this colony, and to every individual colonist.

He further asks, 'What percentage of them are earning a livelihood in a way which can permanently benefit the white community or themselves?' It may be asked, in reply, whose labour made our railways, our public roads, our bridges? Whose labour is now contributing to the prosperity of the colony by bringing into it large sums of money earned at the gold fields? Where do the direct taxes, now nearly £100,000, paid regularly every year by the natives, come from? And whence the large annual proportion of indirect taxes paid also by the natives through the Customs, but from their labour for the Europeans, or exchange of commodities with him? May it not be assumed that the white community reaps some permanent benefit from these services, and that a little may remain to the natives?

The Editor's eloquent utterances about chastity and morality; his strictures upon our widening the latitude of unchastity among the natives are based upon what he supposes to be two facts (1) that Mr. McKenzie's statement of the amended native law is correct, and (2) that the original native law took more care of a woman's chastity than our own does. With regard to the first, Mr. John W. McKenzie's statement of the law as quoted by the Editor is not true; and with regard to the second, I regret to say that the original native law is not, as Mr. McKenzie and the Editor between them try to make out, one whit better than ours. Loss of chastity has its social bar and social penalty, as with us. His superstructure must, therefore, go with the foundation upon which it is built.

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I am overtaken by the *Natal Mercury* of the 7th inst., with its leading article and a letter on the 'Native Question,' by Mr. William Grant. Mr. Grant twits the Editor with an inclination to 'sustain' my argument in favour of 'the continued maintenance of the tribal system among the natives', and 'as a similar assumption or impression', the Editor says, 'has been expressed in other quarters', he hastens to purge himself of the offence, for such I am sorry to find it is considered to be, by straightway adopting, in a general way, all 'the five points put by Mr. Grant, as embodying essential principles that should be kept in view in any sound and far-reaching native policy.' Points which he goes on to assert have been contended for by the *Mercury* 'ever since it came into existence 40 years ago'; which have been insisted upon in days 'when to do so seemed like a mere crying in the wilderness, so little response did the appeal evoke, and so hopeless seemed the prospect of any administrative reform.' A most hearty welcome is therefore given to Mr. Grant, who 'today feels constrained to add his voice to the forces that have so long contended for those principles which represent essentially the policy of the forward party.'

I do not feel inclined to permit, silently, the forward party, or the Editor, or Mr. Grant, much as I respect them all, to plume themselves with feathers that do not belong to them.

As in the first part of this letter, so in the last, I have to complain that all my critics insist upon treating my letter on President Reitz's paper as a defence of the native policy of Natal, in spite of my distinct disavowal of its being so in the letter itself.

But let us examine Mr. Grant's five points:

1. 'Natal is in the legal occupation of a power representing an advanced civilisation; it is therefore incumbent on its Government to create and administer laws which are in harmony with the traditions of a civilised people'. Most admirably stated, and no one can well quarrel with this axiom; certainly the Government of Natal which has acted upon it from its first establishment is not likely to do so.

2. 'The maintenance as at present of what is practically a dual administration, in as far as it relates to the natives, is highly pernicious and to be strongly deprecated. The effect of it weakens the authority of the dominant power, and invests the chiefs under the tribal system with authority to enforce and perpetuate traditions, customs and practices which are the creation of savage minds, and are in consequence repugnant to civilised laws.' Had this paragraph been written by a newcomer I should not have been surprised; it would have accorded with the judgment usually pronounced without hesitation by the average self-sufficient conscientious Briton upon everything not British; but Mr. Grant is no novice. His conclusions would be quite right if his premises were not quite wrong. He reasons upon a set of circumstances which he has allowed himself to imagine. The chiefs have no power to enforce anything except what may be conferred upon them by the Magistrate for a specific purpose, and that which they are clothed with to maintain public order; and with regard to this latter they as often as not try to get the approval or direction of the Magistrate before they exercise it. The effect therefore cannot, as Mr. Grant says, be to weaken, but it must strengthen the dominant power.

As to perpetuating traditions and customs and practices which are the result of savage minds, I have no doubt that they do perpetuate the memory of them in recounting their family histories, as any head of a family would, and does, whether civilised or savage, if he has any history to tell; but they have no more power to enforce them than any head of a family in the three kingdoms.

3. 'The maintenance and impartial administration of laws are the first essentials to the well-being of a state. The mouthpieces of law are our magistrates; to them every citizen should look as the source of authority; any intervening power, such as native chiefs exercise, can but enhance the influence of the chief and proportionately weaken the prestige of the magistrate. I maintain that it is of the highest importance to train every member of a subject race such as our natives, to look direct to the European Magistrate as the one source of authority and power.' This is very prettily and logically written, as everything Mr. Grant carefully writes always is; but it is destroyed by the same fallacy that is fatal to number two, his next preceding point. Mr. Grant misapprehends the position of the native chiefs in this colony. They can no more be rivals of the magistrates than the sheriff can be the rival of the judges of the Supreme Court. Surely Mr. Grant has heard, as most of us have, of magistrates arresting tribal chiefs on criminal charges; of detaining them in gaol for preliminary examination and until brought to trial before a civilised jury. He should know therefore that the criminal law of the country operates, in all the most serious cases, equally upon native and European. For the rest every native, chief or common man, knows and looks to the Magistrate of his district as the authoritative exponent and dispenser of the central authority.

4. 'Although our laws have swept away some of the more diabolical of native customs, many which are offensive to right sense and feeling are retained,

and so long as locations and tribal systems are perpetuated these cannot be successfully attacked much less abolished.'

It would have been more satisfactory if Mr. Grant had mentioned a few at least, of the 'many' that he says 'are retained'. He must have had, or thought he had, some ground for writing this; what was it?

5. 'Circumstances for a time might justify for politic reasons the not too rigid enforcement of a policy which strikes at the abolition of customs pertaining to a largely preponderating portion of native subjects; but this should not prevent the initiation of a distinct policy having for its object the complete uprooting of savage customs inimical to civilisation.'

Mr. Grant writes as if no thought had ever been bestowed upon the subject; or that if it had, no action had ever been taken. He suggests the 'initiation' of a distinct policy, etc. It is a fact, however, that long before even the 'crying in the wilderness' of the *Mercury* 40 years ago, a very distinct policy was initiated, and every native law, practice, and custom repugnant to civilised ideas was, one after the other, as opportunity occurred up to the passing of the Law No. 26, 1875 sternly prohibited, and when thereafter practised punishment followed. If any have escaped, Mr. Grant will do a public service by pointing them out.

Perhaps no public officer has been so mercilessly criticised on any subject as I have been in this very matter. The view I have always held and acted upon was that a civilised government had no right to experimentalise with the lives and properties of its subjects, whether native or European; and the Government coincided in my view. It would surprise your readers to know the many proposals, like cut paper patterns, for 'elevating the natives in the scale of civilisation,' that were offered during my administration of native affairs in this colony, all involving serious social experiments upon an overwhelming native population, entirely ignoring the interests or safety of the few Europeans living in their midst, or the consequences to the natives that must inevitably have followed later on.

Let me quote some passages from a leading article of the *Natal Advertiser*, now my assailant, headed 'Native Law,' written on the occasion of the introduction into the Legislative Council of the Law No. 44 of 1887. It is dated the 14th June, 1887.

I must premise that I do not even now know who the writer was, and that I was not personally acquainted with the person whom I supposed, and still suppose, to have been the author, so that his testimony is at any rate independent. '... Native law is either a good or bad thing intrinsically, and that apart from its technical mystery. If it is a good thing, then the Bill sent to the Legislature by the Governor is a farce, and whether it is a good or bad thing, if it becomes law is likely to lead to tragic events. Native law as native law, is a simple code of strict equity, and rules of inheritance and status of individuals previously were as well known by every adult native as the multiplication table is by the advanced boys in a primary school. Native law as administered, however, by the grace of the Legislature of Natal is quite another matter, and a very simple code has become transformed into a mystery all but inscrutable. Previously there was but one system common through our natives from Tongaland to St. John's River; now, however, in Natal there are many systems, many codes of native law. To find their exact number would require a commission of enquiry, but a rough estimate might be found by multiplying the number of administrators of native law by the number of cases they try in a year, and the result would give a fairly approximate total of the number of codes of native law now

harassing and worrying the native subjects of her Majesty in Natal. Previous to 1875 Sir Theophilus Shepstone was the chief arbiter of native law, and with true wisdom he best fulfilled his duty by gradually eliminating all savage excrescences from the Zulu *corpus juris*, and left a code which gave the natives justice and Natal safety. In 1875 this power was arrogated by the Legislature; a code of so-called native law drawn up and declared law, only to be contemned and ridiculed by the very men who were appointed to administer it. The result is that native law by statute is a blank letter, and is now quite left to the caprice, instinct, prejudice or digestion of the individual administrator. Law No. 26 of 1875 appointed a Board who were to make native laws, that is to say the Council claimed and were allowed to exercise a most important function, and forthwith delegated that power to a board which up to this time (11 years afterwards, and to these may now be added more than four years up to the present date) has practically done nothing, as Mr. Binns elicited last session. Such is native law as it is . . . The Board contemplated by the Bill is but a repetition of the old Board which was born dead, and so remains. The civilisation of a people marches with the proper codification of their laws, and it is the duty of the colony to stop at once the present abortion called native law, to codify the native law itself and insist that it, and it alone, shall be administered. The few who clamour for the bringing of the native population under colonial or Roman Dutch law, but propose a social impossibility, and seek to emulate Samson of old when a social and general upheaval was the only policy at hand. Native law is the right of our natives. With it our control of them will be complete, without it our control will wane as it is waning now, thanks to the irresponsible measure which rings its changes in the guise of native law.'

The above quotation very clearly and very ably sets forth the difficulty and the mischief of the position since 1875. Although I am unable to reproach the Legislative Council for accepting the responsibilities which law No. 26, 1875, imposed upon it, there can be no doubt that it never discharged them. The process which until then had been gradually but continually going on, of adapting native law or usage to the everchanging circumstances of the civilisation with which they were in contact, was suddenly arrested. The opportunities of improvement which 16 years would have afforded have been lost. Meanwhile gigantic influences upon the native mind developed themselves at the diamond and gold fields, while our power to assimilate or guide remained at a deadlock.

Perhaps the functions accepted by the Legislative Council were not such as it could either efficiently or conveniently discharge. The question is too wide to be discussed in the compass of even so long a letter as this; but the fact of its failure should teach a practical lesson, and that lesson should have prevented the difference that has so seriously compromised the position of the forward party.

* * *

After stating his five points, Mr. Grant proceeds to criticise my letter; but before doing so administers a rebuke which he thinks I need, for not having been sufficiently courteous to President Reitz. He may be right. I quite admit that Mr. Grant's courtesy exceeds mine, and I am sorry to have been outdone in this respect.

He finds fault with my declaration that it is impossible to effectually abolish hereditary chieftainship; alludes to my citing the non-success of the Zulu King Chaka in his attempts to do so, and credits me with the conclusion that therefore chieftainship and the tribal system must always remain. He emphasises his

repugnance to this in impassioned language, in which 'elevating influences; Christian and philanthropic efforts' are expressions duly marshalled to captivate whom they may. Now at the risk of incurring another rebuke, I must say, that if Mr. Grant had read my letter fairly, without prejudice, and with the intelligence which I give him credit for, he would have seen that I referred entirely to the failure of the violent modes of abolishing those ancient institutions, which were used by Chaka in older, and which have been occasionally adopted by civilised governments in more modern, times; I moreover described those modes. It was a protest against President Reitz's summary proposals, intended to show their impracticability. There was no need to offer opinions as to what could, or ought to be done, when the object was to show what could not. In like manner Mr. Grant suggests that I have shown but one side of the shield as regards the tribal system, and seems to suggest that I conceal for a purpose, the other, which he says is the darker side. I had no intention of covering the whole ground; it was not possible, nor was it necessary to my argument to do so. I presented that side of the shield which the Government of Natal has made what it is; fit to carry out its behests, and to enforce its authority; and that was the only side which my argument required me to present. I have, however, shed some light upon Mr. Grant's dark side in some of the preceding paragraphs. I hold that so long as the social condition of the natives is what it is chieftainship and tribalism are necessary. They are necessary to give us proper control of them, and proper control they must have. I do not believe in the efficacy of violent measures to destroy prejudices; to efface barbarism, or to commend civilised ideas and habits to a barbarous race. Such means are only the loading of shells with shorter or longer timefuses.

Their ancient institutions may be faulty, but they are efficient, and can be made so for the purposes of enlightened government. Reform them and use them so long as they answer that purpose. Civilisation will undermine them by the gradual but sure process of enforcing the fitness of things. They will become obsolete; useless to the natives themselves, and the practical extinction of them will take place when they are no longer of use to you.

The only 'serious outcome' that Mr. Grant adduces against the Tribal System is 'faction fights'. If he can instance nothing worse, or if he rightly classes these among the worst, there is not much harm in the Tribal System. Faction fights may be between tribes or between sections of one tribe. The causes are invariably local, or personal, or both. They have no connection with the politics of the country, and are of no political significance, except to show that those who compose the factions are much more ready to quarrel among themselves than with us.

Mr. Grant's observations on the tendencies of the rising generation of natives I fully agree with: they are, as he says, growing up with all the liberty our protection affords, and are far less amenable to law and order than their forefathers were; and he very rightly remarks that 'any hesitation or flabbiness in dealing with them will certainly produce disaster.' It is in the nature of things that it should be so. During a period of 16 years when corrective measures were most needed, the legislative power was in a state of collapse. A period long enough to give a generation a wrong bias has thus been lost. Meanwhile deteriorating influences daily increased in strength and number. Mr. Grant will probably be surprised to hear that no class feels and complains of this more than the chiefs themselves.

Mr. Grant quotes a scheme propounded to him by a member of the Cape Parliament, and an influential member of the Bond, for the universal apprenticeship of native youths under a certain age in the colony. Whether this is likely to cure the evil complained of, or to be successfully carried out I need not discuss. We shall at least gain experience if the attempt is made.

I can understand a condition of things in which State reasons might justify a civilised government in applying some indirect, but efficient pressure to minimise the mischiefs of barbarous idleness; but it would have to be fenced about with many precautions.

Although Mr. Grant disclaims all intention of discussing polygamy, he devotes the longest paragraph in his letter to the object of proving that to Natal belongs the 'credit' of originating the idea of buying and selling. He says it has done this 'by having legally fixed a certain number of cattle to be given by the man for the woman'. He gives in the main a good but rather euphemistic description of Zulu marriages, that is, marriages in Zululand, and concludes by saying that 'to fix a certain number of cattle constitutes a buying and selling transaction'; but Mr. Grant has, quite unconsciously of course, misrepresented what Natal has done. It has not 'legally fixed a certain number of cattle to be given by the man for the woman'. What it has fixed is, that whatever the number agreed upon by the families may be, it shall not exceed ten. It may be one only if they agree. That I think is a very different thing. I found that without this restriction, avarice induced the fathers of good looking girls to demand so large a number of cattle that only rich, generally old, men could marry them. The inclinations of the girls were entirely disregarded, and a serious restraint was placed upon marriages; not only was the number of cattle restricted, but it was legally provided that no marriage should be valid at which the girl had not declared publicly before, and under the protection of, an official witness, her consent to the marriage she was engaged in celebrating; so that she has full liberty of choice. Another regulation is that whatever number of cattle may have passed on the day of the marriage, whether only one, or ten, no more can thereafter be demanded in respect of that marriage.

The effect of these two provisions is to free the girl from any undue pressure, and to relieve her parent from the temptation to apply any for the sake of gain. I am afraid that the model Zulu son-in-law, whom Mr. Grant describes as having such a happy lot, is not so well off as the Natal youth. The process which he describes as purely native custom becomes an intolerable tyranny. It is true, as he says, that in many cases not a single head of cattle is given to the father of the girl on the girl's marriage, or for several years after. I am afraid, however, that this is not due to the forbearance of the father, but to the fact that there are none to give, and because no suitor is likely to present himself who has any. Mr. Grant significantly adds, that the relationship between the son-in-law and father-in-law is nevertheless 'kept active by the fact that he' (the son-in-law) 'is looked upon as a standing source of help. When cattle are asked for' (and they always will be when there are any to get), 'one, three, or more head may be given, and this process continues all through the life of the woman, and after death.' A most effective way certainly of keeping the 'relationship active!' The unfortunate son-in-law is never released from legal liability to the avaricious demands of his wife's father or brothers. I speak from the experience which the trial of every kind of native dispute has given me. I have had to adjudicate on scores of cases arising out of this custom, some of them more than 50 years old.

I found that instead of producing domestic or social harmony, as Mr. Grant pictures, it is most prolific of family feuds and bitter discord. One generation hands on its quarrels to another, exaggerated by the accretions of time. It was surely necessary to restrict this source of constant irritation; to relieve the magistrates of the overwhelming work it imposed upon them, and ultimately to put a stop to it altogether, by taking a step in the direction of civilised usage. Would Mr. Grant have us retrace the step?— I am, etc.,

T. SHEPSTONE.