

## Review Debate

### Jeff Guy's *Theophilus Shepstone: a study in character*

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This essay originated in a request for review of a substantial new book by a great South African historian with whom I have enjoyed a very long and more than congenial association. Jeff Guy writes flawless, sparkling prose (Guy 2013, *Theophilus Shepstone and the Forging of Natal*). His account of personages, places and episodes in the history of Victorian KwaZulu-Natal is characteristically knowledgeable and insightful. Though the book is long, no one will find it tedious. In addition it makes available to a wider audience the core content of a number of important unpublished seminar papers. My project expanded beyond the bounds of a conventional review when I found my writings specifically mentioned among works that Guy believes to have fundamentally misunderstood and misrepresented the government of colonised Africans during the long tenure of Theophilus Shepstone as Secretary for Native Affairs. Here is a challenge that cannot be left unanswered, lest it be thought silence signifies assent. The unavoidable consequence is that criticism outweighs appreciation in the pages that follow to a much greater extent than I would wish. Because so much hinges on archival evidence and the interpretation of documents it will be necessary to back up my case with convincing quotations and references.

The large lettering devoted to Theophilus Shepstone on the cover will lead many prospective readers to expect a biography. However, almost everything that might be expected in a full-blown biography is missing. Shepstone's life from birth in 1817 to his arrival in Natal in 1846 is treated in a few paragraphs and scant attention is paid to his experiences after he relinquished his post of Secretary for Native Affairs in 1876. His missionary father rates a mention but his mother Elizabeth Brooks is not named. His large

brood of children, who were to play such significant roles in colonial administration in the late nineteenth and early twentieth century is neglected or sidelined. More remarkable still is the cursory treatment of his 20-year friendship with Bishop JW Colenso, the subject of Guy's earlier book, *The Heretic*. The Shepstones dined with the Colensos on a weekly basis. Theophilus was the leading layman in Colenso's synod, a steadfast supporter of his biblical criticism and a partner in ventures ranging from mission education and diamond mining to succession planning in the Zulu kingdom. Yet Guy has nothing to say on Shepstone's spirituality, his role in church affairs or his views on any of the great intellectual, social or political issues of the day. His central focus is the official correspondence and public statements composed in the course of Shepstone's official duties, first as Diplomatic Agent and later as Secretary for Native Affairs in the colony of Natal. Hence the words in smaller type following Theophilus Shepstone: 'and the Forging of Natal'.

That key word 'forging' signals Guy's further narrowing of the topic to the early period in which the basic governing structures of the colony were laid down. This shows up dramatically in the chronological weighting of the book. On my count about 70 pages are devoted to the years 1842-47 and 118 pages to 1848-56. From here the narrative breaks into a canter (140 pages for the years 1858-72; 98 pages for 1873-75), and then a sprint to the finish with just 57 pages covering events from 1876 to 1893. Put another way, about half the book (260 pages) is taken up with events between 1845 and 1865.

The distribution of archival evidence evinces a comparable imbalance. Guy employs a lavish array of sources in his chapters from the 1840s and much of the 1850s. Although references to British Parliamentary Papers and other published compendia predominate, there are numerous citations of original Colonial Office correspondence in London and the Secretary for Native Affairs Papers in the KwaZulu-Natal Archives in Pietermaritzburg. By the time he reaches the 1860s, references to the Natal archives shrink to almost nothing (apart from those cited in chapter 23 which analyses two maps produced in 1864). The bulk of references are to a single newspaper, *The Natal Witness*, British Parliamentary Papers, published Records of Basutoland and Colonial Office records. In the later chapters references to the Secretary for Native Affairs papers are sparse indeed. The lacuna matters because it was in the day-to-day operations of the Native Affairs department that the so-called Shepstone system took shape. Without detailed attention to the daily correspondence on matters of customary law, chiefly authority,

Christian missions, passes, *lobola* disputes, cross-border relations, wage-fixing, migrant labour, clothing ordinances, land allocation and taxation it is impossible to comprehend the complex operations of government impinging on the daily lives of Natal's colonised subjects. It was this evolving machinery of quotidian practice – not lofty policy statements prepared for distant Colonial Office staff or Legislative Council debates – that constituted the 'Shepstone system', which is why I and many other historians surround the phrase with scare quotes.

In Guy's account the figure of Shepstone and his policy statements eclipse the operations of the department he headed. As a result we lose sight of very important developments. The book is innocent of statistics, including the invaluable accounts published in the annual Bluebooks. The work of Joshua Walmsley, Melmoth Osborn and other border agents goes unnoticed. The Natal Land and Colonisation Company, which battened on the rents of African tenants, rates a single mention. The *isibhalo* system of impressed labour for public works is barely touched upon. The Durban dock strike of 1873 is passed over. Guy's treatment of the hut tax ignores the exemptions granted to Africans working on privately owned farms and occupants of square houses. His discussion of the refugee regulations omits to mention that incoming labour was not subject to their provisions.

Nonetheless, Guy wants readers to believe he has discovered important new materials that compel a reappraisal of Shepstone's administrative practice. 'Not only the man, his policies and their influence, but the concepts conventionally associated with his life and work, have become tired and need regrounding'. It might be expected that this bold assertion would be prefaced by an extensive historiographical survey. Instead, he disdains convention, stating simply that he will 'not, in this work debate directly with the considerable body of work on Natal in the nineteenth century' (2013: 34 n17). He expects his readers to know that literature and to intuit the ways in which his views differ from those of other historians. Thus he writes that 'as we all know', the Zulu people 'would rather fight than give in on' the demands put forward in Bartle Frere's ultimatum of 1878 (477). And without specifying who he has in mind, notes that 'the numerous histories of the [Anglo-Zulu] war have concentrated on the military demands and these have overshadowed their social and economic implications'. Guessing what histories are included in this sweeping judgment will be extremely difficult for scholars and downright impossible for students or general readers. The three pages of text (8-11) devoted to historiography in the Introduction are

similarly vague, with only three or four direct citations and a handful of footnotes which do little to dispel the confusion. It is at this point I find myself numbered among those with a case to answer. The depiction of Shepstone in my 1971 doctoral dissertation suffered ‘from a restricted reading of the primary sources, something that became even more obvious thirty years on in the section on Shepstone and Natal in *The Cambridge History of South Africa*’ (9). Without knowing precisely in what respects my work has been weighed in the balance and found wanting, the only avenue available for defence is to revisit it with a view to identifying passages which need alteration in the light of Guy’s discoveries.

To set the record straight, my research on colonial administration in the era of Shepstone continued long after my doctoral thesis. I extended it first through a reading of all the Natal newspapers, Bluebooks and Secretary for Native Affairs papers from 1860 to 1878, in addition to Colonial Office and Foreign Office archives in London, as well as the Cape Archives concerning labour migration to the Diamond Fields (Etherington 1976, 1978, 1979, 1981). My analysis was extended in my chapter on the ‘Shepstone system’ for the new history of *Natal and Zululand from Earliest Times to 1910* (1989). In the chapter I co-wrote with Patrick Harries and Bernard Mbenga for the *Cambridge History of South Africa* the Shepstone era in Natal is placed within the larger context of southern African history (Harries et al 2009). Lately I have had an opportunity to examine the ways in which Natal officials of the early twentieth century viewed Shepstone’s administrative legacy. Let me explain why I stand by what I wrote on Shepstone for the Natal and Cambridge histories.

Guy’s claim to novelty rests less on his use of new material than on his textual analysis and interpretation. Most of the documents on which he relies have been known to scholars for generations. For example, the case studies he cites of conflict between Shepstone and particular chiefs are more or less the same as I used and Thomas McClendon uses in his nearly new *White Chief, Black Lords: Shepstone and the colonial state in Natal* (2010).<sup>1</sup> Textual analysis of two particular documents bookend Guy’s study. The first he believes set out a contractual basis for relations between Shepstone and Natal’s African chiefs in 1846; the second he claims spelled defeat for the Shepstone model of administration in 1875 and inaugurated a new era of white settler control that honoured Shepstone in name but not in deed.

The first can be quickly assessed by anyone with access to printed British

Parliamentary Papers. Cmd 1292, *Settlement of Natal*, presented to parliament in May 1849 and published in 1850, includes portions of a Shepstone memorandum dated 26 April 1846 – shortly after his arrival in Natal. Guy has read the archived manuscript copy of that memorandum lodged in volume 1/8/1 of the Secretary for Native Affairs papers. In it he finds Shepstone's report that

'The chiefs generally followed by large retinues have come to pay their respects to His Honour the Lieutenant Governor and to ask for lands to be allotted to them by his Honour and that they may be protected in the occupation of them as British Subjects'. (Quoted 74)

However 'it was only after three years had passed that it was sent to London as an enclosure in a despatch written on 17 July 1849 ... in between the writing of the original report and its publication, it was altered – in significant ways' (75). To be precise he finds the omission of the sentence about the chiefs and their retinues to be 'hugely significant for it excludes' what he believes 'to be the essential element in Shepstone's policies and what success he had as a native administrator, both now and in the years to come: that, in return for deference and expressions of loyalty, Shepstone led Africans to believe that under colonial rule they would have secure tenure in land'. In relation to Shepstone's character he finds that 'this demonstrable case of administrative dishonesty undermines confidence in his writing generally and, indeed, the man himself' (76). Taking into account that Shepstone was in a position to conceal everything communicated to him orally in the Zulu language, Guy concludes that he exploited the situation 'by conscious deceit'. The offense was compounded by Shepstone's tampering with a document purporting to be 'a true record of a dated and specific assessment of the situation, written under instruction'. In all his experience in reading British Colonial Office papers Guy had never seen such a case; 'falsification would have been treated with severity, if discovered'. Throughout his book Guy returns repeatedly to the excluded sentence in this particular document as the foundation stone of Shepstone's administration. It was 'essential to Shepstone's success – but it was also his secret – he could not admit that his influence was the consequence of anything so ordinary as a trade-off – land for loyalty; it conceded too much to African initiative and diminished his reputation as a man of extraordinary insight and influence over them' (519).

You don't have to be a pitbull prosecutor to pick this case apart. The place to begin is Guy's admonition that 'without the most careful contextualisation

and a wary, critical approach' documents can 'mislead commentators' (9). What is the context of the document printed in the Parliamentary Papers of 1850? What instructions did Shepstone write under? These are set out in his letter to Governor Martin West (sent through the Secretary to Government) of 14 August 1848, printed in the same volume.<sup>2</sup> He had been asked to give his opinion on the probable operations of the recent Royal Instructions concerning the settlement of 'cases between natives, and also such suggestions on the subject as may seem to me to be called for by the circumstances of these natives, and their relations to the Government and the European inhabitants'. He goes on to say that 'to avoid unnecessary length in this communication, I beg to refer his Honour to my letter of the 26<sup>th</sup> April, 1846 ... wherein matter intimately connected with the subject of your present inquiry are discussed'. That statement succinctly acquits Shepstone of the crime of administrative dishonesty. He did not have to quote the letter of April 1846 in whole or in part. No one asked for its inclusion. He *chose* to quote it 'to avoid unnecessary length' in the letter of August 1848. Excision of extraneous or outmoded material was therefore to be expected. If he sought to bury 'his secret', he need not have referred to the original letter at all; he could merely have copied out what he liked. Unless, as with Edgar Allen Poe's 'purloined letter', the intention was to conceal vital evidence by hiding it in plain sight, Shepstone's omission of what Guy estimates to be a quarter of the document was a simple exercise in economy. The fact that Shepstone continued throughout his career to quote from the printed version proves no more than that it was a handy and legible compendium of ideas he espoused. By taking the printed document out of context, Guy directs readers toward a questionable judgment on Shepstone's 'deviousness'.

But let us suppose for a moment that the 'hugely significant' sentence *was* deleted to hide a solemn contract made with African chiefs. Why write in down in the first place and send it to the governor? What can we reasonably deduce from its contents? Not much I fear. What chiefs had come to pay their respects? All chiefs? Some chiefs? A couple of chiefs? There is no telling. If many had come with large retinues that would have been big news for Pietermaritzburg and its newspaper, the *Natal Witness*, which commenced publication in February 1846. Yet I find no mention in my *Witness* notes. One aspect of Shepstone's character on which McClendon and Guy agree is a tendency to grandiloquently exaggerate the pomp and significance of his interactions with African chiefs. This looks like a prime example. He

wrote the April memorandum after a few short weeks in Natal. It would have been physically impossible to have met more than a fraction of the colony's chiefs, even had they queued like voters on polling day outside his office.

An alternative he might have pursued without deceit or embarrassment would have been to summon a grand conclave of chiefs like that assembled in 1840 by William Hobson for the signing of the Treaty of Waitangi in New Zealand (a precedent almost certainly known to Shepstone) which transferred sovereignty to Britain while confirming the named Maori chiefs in their lands and customs. Comparable British treaties had been concluded in decades past with chiefs in Canada, not to mention the treaties signed with chiefs and communities beyond the eastern and northern frontiers of the Cape Colony. On the other hand, a great deal of historical experience shows how casually even fulsomely documented understandings about sovereignty and land can be ignored or discarded. Even the Treaty of Waitangi remained unratified by subsequent governments. Many if not all of the chiefs Shepstone met in Natal would have been well informed about the trustworthiness of British treaties and guarantees in the eastern Cape. To imagine that they would rely on oral promises of a 27 year old newly arrived official in 1846 stretches credulity to the breaking point. For the sake of argument, however, carry the suspension of disbelief a little farther. Do the words in the allegedly crucial sentence mean what Guy says they mean: 'that Africans came to Pietermaritzburg to confirm that, by giving their political allegiance to the British authorities, they would be granted and protected in their rights to land' (75). In the letter Shepstone states that the unspecified chiefs came to pay their respects and 'to ask for lands to be allotted to them ... and that they may be protected in the occupation of them as British Subjects'. Asking for allocations is a different matter from being protected in their rights to land. The latter suggests a linkage to territories occupied in pre-Shakan times as documented on the 1864 map discussed in Guy's chapter 23. However as we do not know which chiefs spoke to Shepstone before 26 April 1846, we cannot assume they were hereditary representatives of old inhabitants rather than recent arrivals or upstarts.

A last question to be asked of Shepstone's omitted sentence is how the conclusion of such a binding oral contract could remain secret. We know that a great many chiefs and people received no allocations of land (more of that presently) yet there are no records of complaints about broken promises. Shepstone may have been a rarity in his mastery of the Zulu language in 1846, but in another ten years the barriers between the oral world of Africans and

the monolingual literate world of white colonists had broken down in all sorts of ways. The land was filled with missionaries energetically engaged in learning Zulu and turning it into written texts – missionaries, moreover, with a strong vested interest in defending allocations of land to the African they hoped to convert. Why did none of them apparently hear about or refer to Shepstone’s foundational oral contract? Why did not Bishop Colenso cite them while mounting his case – based on oral testimony – for the restoration of Hlubi and Ngwe lands in the wake of the Langalibalele affair? By the 1860s Africans were composing their own petitions concerning lands and laws, but they too are silent on Shepstone’s supposed oral deal. In any case, there would have been no need to appeal to oral memory, as both the original and printed version of Shepstone’s 1846 letter state without equivocation that ‘to my mind, the faith of the Government stands as deeply pledged to the natives in such solemn appropriation of lands for their use as in the granting of a title-deed’. No ifs, ands or buts.

Guy’s handling of this particular document raises questions about his methodological approach to documents in general. He complains that Shepstone’s fragmentary diaries reveal little or nothing of the man (60). Yet when confronted with exceptionally frank and personal letters to Henry Fynn written in his own hand when he was only 19, Guy merely comments in a footnote that ‘too much has been made I think of the two surviving letters that Shepstone wrote to Fynn’.<sup>3</sup> Why, he does not say, even though one letter speaks of love, sex, jealousy and other intimate matters. Even if too much has been made of it, surely that is no reason to make nothing of it, especially in a book so centrally concerned with questions of character. It is as if, once made up, Guy’s mind decrees which documents are to be believed and which to be discarded.

Towards end of the book he makes a large claim about the codification of Native Law by an act of Legislative Council in 1875. This, he asserts, rang down the curtain on the Shepstone regime which had been marked by improvisation, flexibility and the exploitation of the divide between the Zulu-language world of orality and the European world of black letter law. In actuality, the process of codifying Natal’s concocted system of Native Law had commenced long before through a body of case law built up by Shepstone and the magistrates who operated as Administrators of Native Law. Questions of customary law arose on a daily basis not only for magistrates but also for chiefs. They were necessarily ad hoc in the 1840s but, as time wore on, clear understandings about the law emerged and were

cited in written documents kept in the office of the Secretary for Native Affairs. Since chiefs were key figures in the administration of justice, it is necessary to delineate with some precision what kinds of people were recognised as chiefs. Guy gives us little or no guidance on this critical question. Nowhere do we find a definition of chieftainship nor any indication of how many individuals were officially designated as chiefs. He is unable to make clear connections to pre-colonial patterns of authority or residence. He places great importance on two general statements in the March 1847 report of the Locations Commission that 'the natives' own laws are superseded' and 'the government of their own chiefs is at an end' (112). Both statements he believes to have been false and he further asserts that (unnamed) historians have used them 'uncritically' to assert that Shepstone's chiefs were colonial inventions. He cannot link the two statements directly to Shepstone, since he was only one of five commissioners. However, he recognises them as 'written in Shepstone's style'. Surely there is no need for literary guesswork. It would be patently ridiculous to regard them as assertions that chiefs and customary law had ceased to exist. These are statements about sovereignty, not institutions. They are directly comparable to New Zealand's 1840 Treaty of Waitangi and the annexation of Fiji in 1874, which preserved chieftainship, land rights and customary law, while placing The Crown at the head of government. Henceforward chiefs in Natal would hold office under the Queen and exercise their customary powers under such constraints as the Crown might subsequently enact. Shepstone made this plain in 1848: 'The chiefs now view themselves as the hereditary representatives of the Government to their several tribes'. He went on to say that as an estimated one third to one half of the African population were 'without any hereditary head or chief'. 'Where there is no chief the persons appointed to act as such should be accountable to the Government through him for the manner in which they govern their respective tribes'.<sup>4</sup> This was the origin of the appointed chiefs.

Guy's subtitle, *African autonomy and settler colonialism in the making of traditional authority*, evidently refers to his contention that chiefs retained a considerable degree of autonomy pursuant to Shepstone's supposed secret deal. The correspondence between resident magistrates and his office reveals that chieftaincy came in all sorts of shapes and sizes, and exercised markedly different degrees of autonomy. On taking up his position magistrate GR Peppercorne enquired 'whether in my Location there are other chiefs, than Magadame, Pagade, and Somahashe, whose authority

is in any way recognised by government: whether I am to consider these chiefs on a perfect social equality: and whether their authority may be considered as analogous to that of Justices of the peace?’<sup>5</sup> He received no satisfactory answer but within a few months had begun to arrive at his own conclusions. The tribe of Phakade, who would rise to greatness as a Shepstone favourite, was a ‘mere collection of fragments [gathered together] within the last 10 or 15 years’. Fearing that Phakade and the other chiefs would corruptly enrich themselves and reduce his magisterial office ‘to a cipher’, Peppercorne strongly recommends breaking up ‘one or more of these large tribes’ and placing the people ‘under minor chiefs of not exceeding about 10 kraals each’. Otherwise his ‘authority on its present footing will never compete with that of these three chiefs’.<sup>6</sup> Instead Phakade expanded the sphere of his authority. By 1855 the magistrate at Grey Town found that so many of Phakade’s people had moved into his district that it would be desirable to appoint a local *induna* through whom he might communicate with the chief.<sup>7</sup> Two years later the same magistrate recommended the position of hereditary chiefs should be regularised by making them ‘the actual servants of the Government’ through payment of an annual salary based on the size of their tribes.<sup>8</sup> Somahashi likewise advanced in wealth and power over the years under Shepstone’s patronage, but that did not prevent him from being embroiled in interminable brawls over territory and jurisdiction. Francis Becker, Acting Resident Magistrate at Ladysmith found the disputes so perplexing that he drew a complicated sketch map to indicate the positions of the rival claimants.<sup>9</sup> Despite efforts at mediation in 1865 the disputes were more virulent than ever.<sup>10</sup> By 1870 internal fissures within Somahashi’s tribe had opened up to such an extent that a principal *induna* refused to accept the legitimacy of the chief’s designated heir. After a report from his brother John, Shepstone decided that the *induna* and his disaffected following should be relocated to Klip River District.<sup>11</sup>

Chiefs and people moved so often as to give the lie to any thought that an implied promise of land tenure in return for allegiance had been made anywhere. People who attacked government messengers in the Kahlamba Magistracy in 1853 explained their conduct by pointing out that they had been moved so often on the orders of government that they intended to stay put.<sup>12</sup> In 1855 Henry Francis Fynn lamented the trouble caused by Africans moving from one district to another. The causes were many and varied:

Removal, compulsory or otherwise by order of proprietors of private estates, for non payment of rent, or other cause.

Removal, from the power of their chiefs, from causes good, or bad, as they may be.

Removal owing to sickness prevailing, continued deaths of cattle, &c., close outward pressure from native tribes, or by the advance of colonists.

Removal in accordance with Kaffir law, which becomes compulsory, as for instance, A resides in Lower Umkomas Division and dies there, B the succeeding head of the family, resides in Durban becomes the guardian of A's family, and being the legal husband of A's wives, A's family of necessity, removes to the kraal of B.

Removal, in consequence of sale of lands by government, for instance, a farm is sold on which natives are residing, they being a portion of a tribe who have for years, and are still occupying the country around such farm. The whole tribe feeling an insecurity will desire to remove.

Question. To where can they remove?<sup>13</sup>

Fynn noted that the Magistrate in Durban had instituted fines for unauthorised moves but doubted their legality under British or customary law. Two years later he continued to fume over the failure to finalise policy on Locations and Mission Reserves. Until recently there had been only a few white farms in his district, 'but now the process of parcelling out land is going forward, in some cases replacing tribes who were here before the British, and in one case ... people who were here before the Boers'.<sup>14</sup> There was a real danger of a rising unless Africans felt some security of tenure.<sup>15</sup> Fynn's successor, Dunbar Moodie, reiterated the complaint in 1862, noting that people of long residence looked on with alarm as surveyors' white flags were planted in their gardens.<sup>16</sup>

Shepstone requested the magistrates to provide annual statistical information on the extent of Locations, numbers of huts and chiefs and population. GA Lucas complained in 1861 that he found 'it impossible to arrive at any idea as to the number of native huts in this district, to what tribes natives belong and upon what farms natives are residing'.<sup>17</sup> The 'greatest difficulty that a magistrate has to contend with is that the natives with few exceptions belong to no tribe or [at] least will acknowledge to belong to no one, and are scattered over the country on farms occupied and unoccupied – having no head acknowledged by themselves or anyone else'. The following year John Macfarlane was able to list the principal tribes, but noted that 'the extent of these locations cannot be given'.<sup>18</sup> As many as 2,337 adult

males resided not on Location lands allocated by their chiefs, but on white owned farms. Others lived on Crown lands scheduled for eventual sale to farmers. Melmoth Osborn in his Annual Report for 1867 noted that his district of Newcastle was unique in Natal in that ‘the Natives live quite without the influence of chiefs’. He considered it something of a miracle that there was so little serious crime: ‘it being a well known fact that the Chiefs throughout the Colony exercise extensive judicial authority over the people of their own Tribes; and the Tribal responsibilities attached to them, being an additional inducement to their keeping their Tribes within due observance of law and order’.<sup>19</sup> Two years later he found that without chiefs he would have trouble enforcing a new marriage law, so appointed a couple of trusted associates with no prior claims to any kind of hereditary authority.<sup>20</sup>

An additional complication was the large number of cases of chiefly movements between districts and across colonial borders. No sooner had Osborn noted the lack of chiefs in Newcastle district than one showed up with a considerable following. In the hope of escaping diseases raging on the coast they scraped together money to buy a highland farm, only to discover that the chief had mistaken pounds for shillings in the asking price. On Shepstone’s advice the magistrate granted permission for a year’s residence on Crown land while they searched for an affordable property.<sup>21</sup> Magistrate Arthur Hawkins was confounded in 1857 by the return of several petty chiefs who had left Natal years before to escape the hut tax but now wished to return to their previous territories. In this case Shepstone was overruled by Lt Governor Scott on the ground that ‘we do not want any increase to our natives’, especially not in that district where there was ‘a prospect of lands being granted therein to the white Colonists’. At the same time he acknowledged that ‘they will return I suppose despite all we can say, but a refusal from us enhances the privilege of living within the Colony’.<sup>22</sup> At the other end of the scale was Monase, one of Zulu king Mpande’s wives, who fled to Natal in the aftermath of the civil war of 1856. Although technically classified as under one of Shepstone’s favourite chiefs, Ngoza, she behaved – becoming her royal status – as an independent chief. That does not mean she enjoyed autonomy. In 1861 she applied to have six additional huts added to the 121 for which she currently paid hut tax. Recognising that she was engaged in rebuilding her retinue from Zulu refugees scattered throughout Natal, magistrate John Bird insisted that all newcomers bring passes signed by the magistrates under whom they currently lived.<sup>23</sup> A different kind of problem was posed by people whose

recognised chief lived outside the district or even across the colony's border. In 1856 magistrate Hawkins called a meeting of amaBhaca whose chief resided south of the Mzimkhulu river for the purpose of electing some representative to represent them in dealings with government. Their continued allegiance to a chief beyond the borders he considered 'unhealthy', not least because it impeded efficient collection of hut taxes.<sup>24</sup>

Shepstone approved the appointment but insisted that the representative was to be styled an Induna of the Government, not a chief with ordinary chiefly powers.<sup>25</sup> This matters in relation to Guy's argument that Shepstone's regime rested on continuous unrecorded oral negotiations with autonomous or semi-autonomous African chiefs – a regime that gave way to a quite different regime of settler control and codification after 1875. On the contrary, as this case demonstrates, Shepstone was engaged in a continuous process of definition, codification and bureaucratisation of chieftainship. And he did this in writing. An Induna of the Government was a special sub-variety of chief. Although I have never seen a systematic list of all the recognised varieties of chiefs, indunas and headmen, Shepstone's documented decisions reveal a clear sense of distinctions among the functionaries who operated under Native Laws as judges, allocators of land, suppliers of labour and collectors of taxes. When George Ogle claimed expenses for attending a combined court of assessment in a cattle stealing case, Shepstone minuted that 'George Ogle is not a chief such as was contemplated by Law 1955 No. 1 to sit with the Individual [Assessor of Native Law], he occupies the position of a native headman more than that of a chief'.<sup>26</sup> Even when Mnini, a man of ancient family and chief of the Thuli who lived at Durban Bluff, caused a ruckus by expelling one of his people from land the chief used to grow sugar cane and potatoes, Shepstone was not inclined to take much notice. There was 'no necessity for any squabble about chieftainship in such a petty tribe as that of Umnini'.<sup>27</sup> In another instance, where ownership of a larger number was at stake in relation to a petty chieftainship under Ngoza, Shepstone was unwilling to delegate responsibility. 'This case can only be satisfactorily decided at Pietermaritzburg – it is above the jurisdiction of a Magistrate'.<sup>28</sup>

Much of Shepstone's administrative practice on chieftainship is documented in cases concerning succession. The standard procedure obtained in the appointment of Baso as interim chief of the Ngwe in 1864 following the death of his father Putili, 'Baso having been named' to the magistrate 'by the Elders of the tribe'. Shepstone duly recommended the

appointment to Governor Scott who confirmed it in his capacity as Supreme Chief.<sup>29</sup> He would not, on the other hand, recommend confirmation of an heir to the living chief Somahashi in 1869, even though the magistrate's report included a certified written statement documenting the assent of all his people. Magistrate JW Shepstone was instructed to explain to the chief that this 'declaration on his part will not be held to be binding on the Government hereafter in sanctioning his successor'. The most that might be said was that 'due weight will be given to it should any dispute arise between his children'. 'It is desirable', he went on, 'that these people should understand that mere hereditary claims are not sufficient to enable the possessor to govern a tribe whatever it may do as regards the personal estate of the father'.<sup>30</sup> Shepstone blew up when Melmoth Osborn wrote that he had been notified that Nomavovo, Regent for the tribe of deceased chief Yamdenja [sp?] had handed over to the heir who was of age and acclaimed by the tribe. The people must be told that things are not done this way in Natal; you must consult with government over succession questions.<sup>31</sup>

That is not to say public opinion was irrelevant. Nodade, hereditary chief of the Tembo, who had been compelled by his people to take a niece of the rising star Phakade as one of his wives, wished the succession to pass to a son from a less prestigious family. However the people – who had gifted 21 cattle to Phakade on the occasion of the marriage – successfully pleaded that on his death the government recognise the son of the chief's 'tribal wife'.<sup>32</sup> A contrasting case came up in 1871. Magistrate Dunbar Moodie reported that the Ndelu tribe were equally divided in their support for rival candidates for the chieftainship. One was the 22 year old only son of the late chief, as born after his death to his wife through levirate marriage (*mkenga*) to his brother. The other was the eight year old son of that brother by his second wife, who he acknowledged as his chief wife. Shepstone concluded that the first candidate was plainly the rightful chief. As for Moodie's suggestion that the tribe might divide, Shepstone wrote 'It may be desirable occasionally for political reasons to dismember tribes when opportunity such as this offers, but I doubt the policy of doing it in this instance. There is a danger of the natives supposing that they may have their own way'. It 'must be decided that Sonsukwana is the heir and the tribe ordered to obey him under the Magistrate – of course they may appeal if they wish'.<sup>33</sup>

Custom provided no certain guide when Moodie dealt with a request from the chieftainess Vunhlazi, widow of HF Fynn, who had been not only a magistrate but *inkosi* of the Isikumbini, an 'artificial tribe' composed of his

personal following. In 1865 Vunhlazi submitted her resignation as *inkosikazi*, goaded into it by her sons after Moodie imposed a £20 fine for an unnamed act of disobedience. According to the principle of collective tribal responsibility her people should have helped pay the bill, but refused. Her sons worried that unless she relinquished her office tribal responsibility would bankrupt the whole family.<sup>34</sup>

What we see in these cases is a fulsomely documented, developing system of colonial administration operating through designated magistrates, chiefs, indunas, clerks, constables and other functionaries. Pre-colonial associations with particular landscapes and acknowledged principles of inheritance mattered to some extent, but the same guiding principles and procedures applied across the system, including a very large number of invented tribes under appointed chiefs on territories unknown to their ancestors. It was not, as Guy insists with no evidence, a continually improvised travelling road show marked by crucial deals concluded orally under the 'interminable trees, where Somtsewu, the inkosi, the patriarch, the African chief, the enigma, carried out his work – at a distance from the world of writing' (518). The system employed the standard tools of any colonial bureaucracy: offices, chains of command, written reportage, organised archives and respect for precedent. It grew into something much bigger than Shepstone the man and his African interlocutors, which is why I follow the convention of putting 'Shepstone system' into inverted commas. While it could appear to Natal's colonised subjects as an unpredictable, highly personalised and even capricious government in which people learned about new laws by seeing their fellows fined or gaoled, it grew organically according to an understandable structural logic.

Guy repeatedly berates historians for reading Shepstone's 1846 recommendations for the administration of Locations as a real blueprint for implementation in an ideal, properly funded world. That document (with its supposed excision of an oral trade off of land for loyalty) envisaged powerful magistrates operating in conjunction with chiefs to introduce a progressive regime of commercial agriculture and British justice. Yet in 1874 when Shepstone made recommendations for the future administration of the Location lands from which the allegedly rebellious Ngwe and Hlubi had been expelled, he virtually reprised his memorandum of April 1846. No hereditary chief should be allowed to move into the Location. Headmen from various districts who applied to relocate their people would be strictly subject to a white superintending magistrate, who would find them easier to control due

to their mutual rivalry and ‘natural jealousy’. The magistrate:

should also consider it an important part of his duty to develop industrial occupations among the natives themselves such as improved dwellings and cultivation or the production of whatever the specialty of the location may suggest and to induce unemployed young natives to seek employment among the colonists than which there cannot be a better means of civilization. He should decide all cases of appeal against decisions given by the headmen and possess original jurisdiction where the parties prefer appealing to his decision in the first instance. There should however be an appeal to his decision to the Magistrate of the County or division and from him to the Secretary for Native Affairs as at present. He should also institute and keep a complete registration of the population under his charge listing sex and age, tribe in which born and as many particulars as may be possible.<sup>35</sup>

Perhaps the most unexpectedly enduring development during Shepstone’s tenure of office was the cementing of chieftainship as an indispensable institution of colonial government. Around the year 1860 several magistrates noted a decline in the importance of chiefs as evidenced, for example, by a decline in the number of legal cases they decided and requests to hold the annual festival of the first fruits.<sup>36</sup> Arthur Hawkins observed that:

the political power of the chiefs over their different Tribes is gradually decaying, and their influence slipping through their hands. In a view years unless some event should occur to alarm and arouse the whole native population and cause them to rally round their Chiefs, they will become the mere Indunas of the Government.<sup>37</sup>

And yet they survived, do survive into the twenty-first century, thanks to the way they had been built into a relatively cheap but necessary agency of the colonial state.

Through a similar and related process Native Law emerged from customary practices encountered by magistrates and courts into a codified set of rules and jurisprudential procedure. In the 1850s there was a great deal of uncertainty and confusion in the application of Native Law. On being reprimanded for improper administration of justice in 1856 John Macfarlane explained that he had ‘received no instructions, on assuming office, to guide or assist me in the administration of justice among the natives according to Kafir law, and I therefore adopted the method I thought most advantageous for the public interest, as well as what would, in my opinion, work most beneficially for the natives themselves’.<sup>38</sup> Benjamin Blaine became incensed when an order he issued for the arrest of absconding refugee ‘apprentices’

had been let go by another magistrate on the ground there was no written warrant. However it was decided that as the case fell under a colonial ordinance rather than Native Law, a warrant was required.<sup>39</sup> On the other hand, Attorney General Gallwey in 1861 ruled that provision for divorce in a draft law 'on Christian Kaffir Marriages' was inconsistent with the respect for indigenous usages embodied in the 11<sup>th</sup> clause of the Royal Instructions of 1848, which were the foundation for recognition of Native Law in the Colony.<sup>40</sup> Especially troubling in the early years was the question of what law, Native or English, should apply in criminal cases between Africans and white colonists. Courts tended to treat these 'mixed' cases as falling into their jurisdiction. Shepstone protested that such cases should be tried by Native Law as offences against public order. It would be a bizarre outcome 'that the condition of their Emancipation [from Native Law] should be the commission of a crime against the person or property of a civilized person'.<sup>41</sup> Gradually, but inexorably the legal system veered toward expanding the scope of Native Law to encompass any case where racially non-European persons were concerned (including immigrants, Coloured people from the Cape and those of mixed descent). A woman charged in 1872 with absconding from the master to whom she had been apprenticed under the refugee law hired a lawyer to argue that the case should be tried under the Masters and Servants Ordinance because a white man was involved.<sup>42</sup> However the court ruled that the Lt Governor, as Supreme Chief, was empowered to issue such regulations as he pleased under Native Law. At the same time Shepstone's administration moved to curb the practice of white farmers charging fees for cases they decided involving their tenants.<sup>43</sup> Year by year the legal system was brought more tightly under government control. It became the practice in the great majority of cases to deny Africans the right to an attorney in any case under Native Law.<sup>44</sup> This facilitated the implementation of harsh punishments imposed collectively on tribes even where individual innocence could be proved.<sup>45</sup>

From the beginning the principle of collective responsibility was applied to chiefs and tribes in Natal, but its implementation was progressively refined. In 1872 Shepstone initially approved the fine John Bird imposed on chief Teteleku over an affray involving some of his people, but was overruled by Lt Governor Scott, who held that the magistrate should in the first instance have referred the case to him as Supreme Chief. Scott's successor, Anthony Musgrave, confirmed the rule in a sheep stealing case, even as he noted that collective responsibility 'is an old English principle'.<sup>46</sup> Despite

the confident prognostications of magistrates in 1860 that the legal powers accorded to chiefs would atrophy over time, their part in the system also became institutionalised. When John Shepstone complained that a chief had undermined his magisterial authority by punishing cattle stabbing with a fine, his brother insisted that ‘preventing chiefs adjusting minor disputes among their people will destroy their authority altogether and result in serious evil’. However, the outcome of all such cases should be duly reported to the local magistrate for confirmation.<sup>47</sup> Involving chiefs also helped distance the administration from difficult cases of poisoning, love potions and sorcery.<sup>48</sup> Even though a case of witchcraft had instigated the dual system of law authorised by the Royal Instructions, officials at all levels continued to tread carefully. Such was the case of Supreme Chief v U’Makubalo in 1863. A man admitted to the practice of witchcraft was sentenced to three months imprisonment – thus implicating the Lt Governor in punishment of a practice in which he did not believe and the government explicitly condemned.<sup>49</sup> Lt Governor Scott, in agreeing with Shepstone that as a first offence the sentence should be reduced to one month, referred to Shepstone’s earlier circular instructing magistrates ‘not to press too heavily on persons accused of this superstitious practice amongst the natives, but gradually to become more and more stringent’.<sup>50</sup>

Similar circulars and conferences for magistrates constituted, as they accumulated, a body of practice and implicit codification of Native Law by the colonial administration.<sup>51</sup> For that reason it is impossible for me to accept Guy’s argument that the scanty legislation of Native Law by the Legislative Council in 1875 represented a drastic departure from previous practice and a transfer of authority from the Secretary for Native Affairs to the representatives of settler colonialism, or that subsequent Native Codes ‘changed Shepstone’s oral public into an illiterate one’ (526). The documentary evidence recording cases, African testimony, outcomes, and appeals is just too vast to sustain Guy’s imagined transition from Shepstone’s personal and purely oral African administration to a world of black letter law laid down by the settler regime. Even when the balance tilted in 1893 toward untrammelled power for the white settler regime, the definition and application of Native Law demonstrated continuity rather than a decisive break. Reading the Act of 1875 without reference to the body of case law and administrative practice developed over the previous 30 years led Guy into an error, which cannot be allowed to stand.

Thus at both the beginning and conclusion of his book he tries to build

a revisionist case on the interpretation of a single document extracted from its longer-term historical context. The first mistake arose from simply overlooking the document to which the supposedly critical letter was attached. The second leap in the dark was to view the codification of Native Law within the very narrow compass of Legislative Council debates of 1875 – ignoring the administrative/judicial apparatus constructed over previous decades. If he looked into the records he would find that after 1875 nothing much changed. Chiefs continued to make judgments and report them to magistrates who in return looked to the Secretary for Native Affairs and the governor for confirmation. Those judgments were based on prior practice rather than any attempt to apply the skimpy legislation of 1875. It was no more perfect than any other system of justice – probably less so because of its assumption that customary law rested on an assumption of untrammelled chiefly despotism. My guess is that Guy climbed out on this long and untrustworthy limb because he departed from his initial methodology of steadily reading through the papers of the office of Native Affairs. By the time he reaches the 1860s he is viewing public affairs – as so many historians before him had done – as a contest pitting Shepstone against a chorus of critical settler politicians and newspaper editors.

Viewed through this distorting prism the apparatus of African administration is grotesquely personalised, as is the evolving political economy of Natal. The ‘Shepstone system’ is reduced to Shepstone the man, while a narrow focus on his critics’ fantasy of unlocking endless supplies of cheap labour by attacking Locations and customary usages diverts attention from the myriad ways in which the colonial state had been inexorably driving the expansion of a capitalist economy. Although the argument is never clearly or concisely stated, Guy reiterates throughout his book that Shepstone’s policies and administrative procedures were somehow intimately connected with a temporary slowing or amelioration of the transition from the pre-colonial mode of production to a full-blown capitalist economy. He seems to me to be saying that Shepstone’s supposed secret trade off of land for loyalty not only demonstrated the previously unacknowledged role of autonomous African chiefs in defining the parameters of Shepstone’s administrative reach, but also allowed breathing space for what survived of a far more ancient and personal system of reproduction and production.

Shepstone knew where, in the final analysis, his power lay in Natal. In his capacity to give Africans access to the land – in the concept of

*ukukhonza* – that political allegiance granted not just a right to the land, but right to land as the means to make a living in the full sense of the phrase. (315)

The formula Guy consistently employs – ‘people or things’ – contrasts a precolonial mode of production based on relations among people with the capitalist system, according to which people relate to the economy and each other through commodities: ie things. Readers familiar with his work will recognise this as a variation on an argument pursued 35 years earlier in *The Destruction of the Zulu Kingdom*, where he argued that in the aftermath of the Anglo-Zulu war a political economy previously quarantined from the advancing domain of capitalist relations of production was abruptly prised open to serve the demands of the migrant labour system.

At a highly abstract level of analysis there can be no quarrel with his attention to a momentous transition to modernity. However he ahistorically reduces it to absurdly narrow chronological and geographical bounds. Centuries before, the economy of things made its first appearance on the East African coast. The slave and ivory trades brought it much closer in the eighteenth century. Trade in guns and other manufactured goods had spread right across southern Africa by the time Shepstone took up his post as Diplomatic Agent in Natal. He wasted no time in setting measures in place to speed the advance of a money economy, as he signalled in the final paragraphs of his printed letter of 26 April 1846, in which he confidently predicts that within six years his proposed system of taxation will generate revenue ‘sufficient to pay the expenses of their own government at the lowest computation’. How right he was. Within a couple of decades money extracted directly or indirectly from Africans sustained much of the entire government apparatus. The first crucial step was the implementation of a hut tax. Elsewhere in the British Empire taxes imposed on newly colonised peoples could be paid in produce or animals. Not in Natal; only cash would do. Getting cash of course meant acquiring money either through wages or sale of goods. Either way meant a giant step into the world of things.

Guy is less interested in the money than the huts. As the hut was the domain of women, he deduces ‘it was women’s labour upon which the tax was calculated and imposed’ (144). For that reason he finds it odd that he has ‘yet to find a woman’s voice on the subject’. In formal anthropological logic he has a point, but it only becomes immediately relevant if women’s production of mealies, maize or some other commodity for cash generated the cash to pay the tax in the first instance. The early record, so far as I am

aware, is silent on this point, but we know that in later decades the hut tax was almost entirely paid by young men on behalf of their fathers.<sup>52</sup> Because the hut was the locus of women's reproduction as well as production, it was not illogical that the tax should fall ultimately on the sons who went out to work for money. The more puzzling question is why the hut tax was so readily accepted. In his foundational memorandum of 26 April 1846, even before the precise form of tax had been settled, Shepstone predicted it would not be unpopular 'when established upon just and equitable grounds'. People 'accustomed to contribute to the means of their chiefs' would acquiesce. Five years later GR Peppercorne concluded that the experiment had worked because the people 'generally I believe look on the tax as affording them a sort of right of tenure in the country which is in analogy with their own offerings to their chiefs'.<sup>53</sup> This strikes me as a more reasonable interpretation than Guy's surmise that Shepstone had raised 'material expectations' that the tax would guarantee possession of 'particular lands' (141). When people learned that they would be exempt from tax if they paid rent or supplied labour to owners of private farms, they would have been strengthened in the belief that money payments conferred a right of tenure.<sup>54</sup>

Of course, the hut tax was just the first step in an ever-expanding effort by government to extract revenue from its African subjects. Fees and fines of all descriptions proliferated, all payable in money. Not just fines imposed by magistrates or courts, but fees for marriages and divorce. Items of consumption favoured by Africans – blankets, 'Kaffir hoes', snuff tobacco, beads and a range of other goods were subject to heavy import duties. By 1872 roughly 75 per cent of all government revenue was derived directly or indirectly from the African population.<sup>55</sup> Without their massive entanglement in the political economy of 'things' this stupendous result would have been impossible. In addition the government connived to extort a further tribute excluded from its accounts. Its *isibhalo* system claimed for the Supreme Chief, and managed through resident magistrates, the customary power of the pre-colonial *inkosi* to call out labour when required. On that basis impressed labour built and maintained the roads. It was, according to John Bird in 1873, 'probably the hardest labour performed in this Colony':

The men are lodged in tents, which, even when new, will not in long-continued rains prevent the admission of much wet. ... The natives are unprovided with stretchers of planks to sleep on. They lie down at night with nothing more than a mat between their bodies and the damp ground .... For this work and for the endurance of the discomfort and liability to rheumatism and other disorders consequent on exposure to constant

damp, they receive 7/6 a month, a rate of wages scarcely exceeding that ordinarily given to a herd boy, whose occupation is the lightest kind of labour.<sup>56</sup>

Comparable conditions obtained for impressed workers at the Durban Harbour works, which made it difficult for magistrates to fill the quotas imposed through Shepstone's office.<sup>57</sup>

As with the hut tax, Africans living on private farms were exempt from forced labour on public works.<sup>58</sup> This was but one of the many ways in which the office of Native Affairs assisted farmers and other private employers. Wage rates for day labourers in towns were fixed. Not only were immigrants classified as refugees cruelly parcelled out as 'apprentices', but the Secretary for Native Affairs gave every possible assistance to the passage of migrant workers in Natal from neighbouring territories. Magistrates lent a hand in recruiting unskilled workers to assist white miners at the diamond fields.<sup>59</sup> Against this background of official action to goad Africans into the colonial workforce the set piece debates between Shepstone and settler politicians in the Legislative Council have about as much semblance to reality as a Punch and Judy show. At the close of each parliamentary session the supposed defender of 'native indolence' on one side and the champions of the poor, labour-starved settlers on the other went back to their normal collaboration in the mutually beneficial work of turning Africans into taxpayers, consumers and wage labourers. That the availability of land for crops and grazing – whether on Locations, Crown Land or private farms – enabled the costs of feeding workers' families to be excluded from the wages bill does not mean they retained the semblance of an autonomous existence in the world of 'people rather than things'.

A mountain of evidence shows how Africans of all degrees entered into the money economy. Chiefs found that planters would pay from £10 to £40 for their services in supplying labour to sugar fields.<sup>60</sup> They also discovered the virtues of demanding money fines from people they convicted of transgressions. Shepstone's police and messengers proved equally susceptible to corruption.<sup>61</sup> The reason it grew increasingly difficult to impress *isibhalo* labour for public works was that so much more money could be earned by wagon driving, stock work, domestic service, and diamond digging.<sup>62</sup> Magistrates remarked in the late 1860s on the rapid increase in the amount of *lobola* contracted at the time of marriages. Instead of one to five cows, people now paid up to 20 or 30 head of cattle.<sup>63</sup> African purchases of land grew rapidly, driven not only by resentment at the

exactions of private owners but by their capacity to pay. Umkungu, the refugee Zulu prince, made a down payment of £500 for a purchase of Crown Land on behalf of his following in 1868.<sup>64</sup> GA Lucas attributed a movement away from white-owned farms in 1872 to a spreading knowledge of the labour market:

When the Natives [first] went to reside on occupied farms, they were poor, now as a rule they are rich; in some cases the tenants' cattle outnumber those of the owner. Until lately the necessity to obtain a certain sum to pay taxes and supply their few wants obliged the natives to work for say 6 months in the year [but] wages have risen, consequently the sum which formerly required six month to acquire, requires now but three or four months. ... Natives prefer residing on land which is unoccupied by white farmers 1stly because they are much more independent, 2ndly because they can work where and for whom they think fit. The native is sufficiently educated to see the advantage of being able to sell his labour in the highest market.<sup>65</sup>

In such a climate lawyers like DD Buchanan found it profitable to tout for custom in Zulu language newspaper advertisements.<sup>66</sup>

The penetration of money and things extended to the lowliest persons and across the border into Zululand. The spread of African gun ownership caused magistrate Dunbar Moodie to worry in 1862 that it threatened the wholesale destruction of wild game in Natal.<sup>67</sup> A surviving inventory of a £600 consignment of trade goods for Zululand in 1863 includes copper rings, shirts, trousers, blankets, beads, a set of gold studs and a £1 gold piece.<sup>68</sup> By that time it had even become commonplace for diviners to demand cash for their witch-finding services.<sup>69</sup>

For all these reasons it is impossible to accept Guy's implied argument that autonomous chiefs, through the unrecorded oral bargains they concluded with Shepstone, were able to shield the old system against the oncoming juggernaut of capitalist relations of production up to the moment that settler politicians were able to define Native Law on their own terms. There was no grand bargain buying time for the old regime. The reign of capital commenced with the imposition of the hut tax and rapidly extended its grip on every aspect of life. The decisive moments in the development of Natal's pioneering system of indirect rule came when the British Colonial Office sanctioned the recognition of customary law, when the subjection to Native Law became the default position of every African not explicitly exempted, when the Natal Native Trust barred the granting of title deeds to Location Lands, and when almost insuperable barriers were erected to prevent Africans from voting. All

these fateful decisions were taken during Shepstone's tenure as Secretary for Native Affairs. They, along with the case law, bureaucracy and administrative practices laid down in his time, constitute what we know as the 'Shepstone system'. It survived intact into the twentieth century, although the advent of Responsible Government in 1893 made it more responsive to the volatile whims of a virtually all white electorate.

Its principal features were copied by British colonies from Southern Rhodesia to Kenya. For reasons I cannot comprehend Guy wants to dissociate Shepstone from these later developments. Of course, to make out a contrary case he would have to enter into comparative analysis of a range of colonial regimes, which he does not do. Lacking that basis his dissent carries no weight beyond its own assertion. But I think his stand reflects a predilection for historical analysis of self-contained systems. Hence his tendency to treat Natal as a theoretical universe in which the whole drama of transition from a pre-capitalist economy to a capitalist one is played out with little attention paid to what may have been going on elsewhere. This predilection emerges most strikingly in his treatment of white racism. On his reading economic hardship of the mini-recession of the 1860s bred and hardened settler racism:

Any analysis that seeks to explain the anxiety and aggression that characterised settler society and coalesced into virulent racism has to move beyond (or behind) its social and cultural manifestations, to the failure to gain possession of the three factors of production in the system that had made them: land, labour and capital.... [Africans] were not yet the amenable, disciplined and cheap labour resource that the settlers believed they must have if they were to be successful and to which they were entitled. And out of this visible native autonomy and its concomitant settler dependence and vulnerability, grew a pathological racial hostility. (341-2)

The first problem here is, as we have seen, that he lacks the economic data to demonstrate 'visible native autonomy'. The second is that plantation slave holders in firm control of land, labour and capital generated some of the most stridently racist thinking, as evidenced, for example by Edward Long's 1774 *History of Jamaica*. The third is that most white settlers came to Natal with a fully developed sense of racial hierarchy and were up-to-date on the latest doctrines from Europe and North America. Fourth, to prove a hardening of attitudes after 1867 we need some documentation on the allegedly softer attitudes of the 1840s and 1850s. Guy does not supply it, probably because it does not exist. The growth of European racism is a very large topic in which diffusion of ideas across empires plays a huge role. To

ignore the bigger picture and attribute 'pathological racial hostility' to local economic circumstances carries vulgar Marxism the point of caricature.

In his notes to this chapter he remarks that he does not accept the analysis of racial anxiety set out in my work on Natal's rape scare of the early 1870s and Jeremy Martens' work on the 1880s, explaining that we 'depended too heavily on particularly well-documented examples of a far more general pattern of fear characterised by numerous local and specific instances of intense anxiety throughout Natal's history' (343 n19) Without labouring the point I would simply direct readers to my concluding statement that 'a substratum of guilty fear may be recognized as part of the more or less constant psycho-pathology of a racist society, a fear which can rise to the surface as a collective panic whenever sufficient cause threatens the colonists' shaky sense of being in control'. Whenever 'there were alarms across the border, influxes of unfamiliar migrant workers, firearms secreted in the countryside, and competition from African rivals in the marketplace, the mask of effortless control slipped' (Etherington 1988; also Martens 2001).

All this discussion of law, governance and production will almost certainly convey a distorted picture of Guy's book. My main purpose has been to defend a position. After reading the book would I change what I wrote in the new *History of Natal* of the *Cambridge History of South Africa*? Not a word.

However, Guy's book is not directed at engaging with any of the recent scholarship on KwaZulu-Natal. The great theme of the book is character, not just Shepstone's character, but a host of other figures, British and African. He concedes Shepstone's abilities but finds him 'devious', 'evasive' and sometimes mendacious. 'Shepstone was, and is, deceptive. It is by accepting his deceptions that one begins to understand him' (502). 'Of all Natal's governors, Pine is the most difficult to assess'. Although his despatches 'show a quick confident grasp', he was also 'stubborn, self-aggrandising, manipulative and deceitful' (151). Guy praises GR Peppercorne and DD Buchanan for courageous defence of principle under fire. Shepstone's messenger Mahoiza was 'a hard man and he enjoyed the privileges that went with this position' (389). Magistrate Struben was brutal, magistrates Thompson and Cleghorn, drunken and unreliable (chapter 13).

Not for a very long time have I read a work of historical scholarship so concerned with moral character. In this respect it harks back to Victorian and Edwardian practice. This may explain Guy's frequent references to historians of an earlier era: Alan Hattersley, Edgar Brookes, CJ Uys, Edwin Smith, AT

Bryant, etc, and his scant attention to the current generation. On reflection, he has a point. Is it not time to revisit the question of character? Here, as in so much of Guy's previous work, he may be a prophetic voice.

## Notes

1. McClendon (2010:3-4) engages with Guy's modes of analysis, but Guy does not repay the compliment.
2. House of Commons Parliamentary Papers.[1292] Settlement of Natal. Correspondence relating to the settlement of Natal. In continuation of papers presented 3rd May, 1849, pp. 42-44. Interestingly, the signature on the copied 26 April document is misprinted as J. Shepstone.
3. Note 17, p 69. One letter is reprinted in Weir 2008.
4. Shepstone to the Secretary to Government, 14 Aug. 1848, House of Commons Parliamentary Papers.[1292] Settlement of Natal. Correspondence relating to the settlement of Natal, pp. 42-43.
5. Peppercorne to Shepstone, Impafana Location 20 Oct. 1850, SNA 1/3/1.
6. Peppercorne to Shepsonte, Impafana, 26 Feb. 1851, SNA 1/3/1.
7. Magistrate Kelly to Shepstone, Grey Town, 19 Feb. 1855, SNA 1/3/4.
8. Kelly to Shepstone, Klip River, 16 Feb. 1857, SNA 1/3/6.
9. Becker to Shepstone, 14 May 1864, SNA 1/3/14.
10. Magistrate Lucas to Shepstone, 11 Oct. 1865, SNA 1/3/15.
11. J.W. Shepstone to Shepstone, 11 Aug. 1870 with Shepstone minute of 17 Aug., SNA 1/3/20.
12. Benjamin Blaine to Shepstone, 10 Aug 1853, SNA 1/3/2.
13. Fynn to Shepstone, 17 Feb. 1855, SNA 1/3/4.
14. Fynn to Acting Colonial Secretary, 6 Aug. 1857, SNA 1/3/6.
15. Fynn to P. Allen, Acting Colonial Secretary, 12 Sept. 1857, SNA 1/3/6.
16. Moodie, Annual Report on the Condition of Natives in the Lower Umkomanzi Division, 1862, SNA 1/3/11.
17. Lucas to Shepstone, 11 April 1861, SNA 1/3/10.
18. Macfarlane to Shepstone, 30 May 1862, SNA 1/3/11.
19. Osborn, 1867 Annual Report for Newcastle, SNA 1/3/18.
20. Osborn to Shepstone, 28 Oct. 1869, SNA 1/3/19. This was but one of a score of similar cases in other magistracies that year.

21. Osborn to Shepstone, 9 Oct. 1868, SNA 1/3/18.
22. Minute on Hawkins to Shepstone, 1 June 1857, SNA 1/3/6. See also Moodie to Shepstone, 28 June 1862, SNA 1/3/11. Shepstone approved migration of a tribe from Nomansland into Natal on the ground that land was thinly populated and the chief a loyal friend to government. Once again Scott vetoed the proposal because it would be misconstrued by the public.
23. Bird to Shepstone, 6 July 1861, SNA 1/3/1.
24. Hawkins to Shepstone, 24 Dec. 1856, SNA 1/3/5.
25. Shepstone to Resident Magistrate, Upper Umkomazi, SNA 1/1/7.
26. Minute of 26 April 1871 on Dutton to Shepstone, 25 Jan. 1871, SNA 1/3/21.
27. Minute of 14 Aug. 1865 on J. Davies to Shepstone, 1 Aug. 1865, SNA 1/3/15.
28. Windham to Shepstone, 2 July 1858, SNA 1/3/7.
29. Macfarlane to Shepstone, 8 Feb. 1864, SNA 1/3/14. Eventually Manzezulu, Putili's grandson was confirmed in the chieftainship; Macfarlane to Shepstone, 25 April 1866, SNA 1/3/16.
30. Minute of 30 July 1869 on J. W. Shepstone to T. Shepstone, 29 July 1869, SNA 1/3/20.
31. Minute of 1 Dec. 1871 on Osborn to Shepstone, 16 Nov. 1871, SNA 1/3/21.
32. Macfarlane to Shepstone, 12 June 1869, SNA 1/3/20.
33. Minute of 27 July 1871 on Moodie to Shepstone, 23 May 1871, SNA 1/3/21.
34. Moodie, Annual Report of Lower Umkomanzi Division 14 Jan. 1865, SNA 1/3/15. The outcome is not recorded.
35. Shepstone, Recommendations for future management of Locations lately occupied by Ngwe and Hlubi, July 1874, SNA 1/6/8.
36. Windam, Resident Magistrate Umvoti, to Shepstone, 30 April 1861 and Williams, Resident Magistrate, Tugela Division to Shepstone, 3 May, 1861, SNA 1/3/10; Windham, Annual Report for 1859, SNA 1/3/9.
37. Hawkins to Shepstone, 26 March 1860, SNA 1/3/9.
38. Macfarlane to Shepstone, 31 Jan. 1856, SNA 1/3/5.
39. Blaine to Shepstone, 2 Dec. 1857, SNA 1/3/6
40. Gallwey to Shepstone, 25 April 1861, SNA 1/1/11.
41. Shepstone, Report on Document 893, 18 Nov. 1856, SNA 1/1/6.
42. F.R. Becker, 30 Jan. 1872, 'Supreme Chief v. Umukili', SNA 1/3/22.
43. Lucas to Shepstone, 23 Oct. 1871, SNA 1/3/21.

44. Macfarlane to Shepstone, 17 Aug. 1872, SNA 1/3/22.
45. See the punishment imposed in the case of the disappearance and supposed murder of a white famer; Hawkins to Shepstone, 11 Sept. 1865, SNA 1/3/15. Shepstone and the Lt. Gov. concurred with the magistrate that to let people off because they could not be proved to have committed any crime would be to encourage crime against white men in remote district.
46. Minute on Bird to Shepstone, 9 Nov. 1872, SNA 1/2/22.
47. Minute of 18 July 1862 on J. W. Shepstone to Shepstone, 16 July 1862, SNA 1/3/11
48. On love potions, see Fynn to Shepstone, 6 Feb. 1854, SNA 1/3/1; Struben to Shepstone, 18 June 1855, SNA 1/3/4.
49. Case report, 19 March 1863, 'Supreme Chief v. U'Makubalo', SNA 1/3/12.
50. Minute of 7 April 1863 on Bird to Shepstone, 26 March 1863, SNA 1/3/12.
51. On Magistrate's conferences on Native Law, see Shepstone minute of 4 April 1867 on Blaine, Inanda Annual Report, 18 Jan. 1867, SNA 1/3/17.
52. HC Colenbrander, Magistrate Umlazi Division, report on interviews with chiefs and headmen in relation to the proposed poll tax of 1905, SNA 1/3/328. The wider subject is treated in Carton 2000.
53. Peppercorne to Shepstone, 26 Feb. 1851, SNA 1/3/1.
54. For a statement of possible exemptions see: Cope to Shepstone, 22 May 1856, SNA 1/3/5; Kelly to Shepstone 5 July 1859, SNA 1/3/8; Bird to Shepstone, 10 Jan. 1863, SNA 1/3/12.
55. These figures derive from my own analysis set out in Etherington, 1989: 174-5. Melmoth Osborn in 1866 pointed to the rapid growth in Custom House receipts as evidence that Africans were fast becoming consumers; Annual Report for Newcastle Division, 1866, SNA 1/3/17.
56. Bird to Shepstone, 6 March 1873, SNA 1/3/23.
57. Meller to Shepstone, 8 May 1863, SNA 1/3/12; Rowse to Shepstone, 18 Feb. 1862, SNA 1/3/11; Macfarlane to Shepstone, Return of labourers supplied for harbour works, 1862, SNA 1/3/13.
58. Bird to Shepstone, 15 Feb. 1865, SNA 1/3/15; Shepstone minute of 10 Jan. 1868 on Bird to Shepstone, 10 Jan. 1868, SNA 1/3/18; Eastwood to Shepstone, 4 May 1863, SNA 1/3/12.
59. Lucas to Shepstone, 17 March 1872, SNA 1/2/22.
60. Fynn to Shepstone, 4 July 1859, SNA 1/3/8.

61. Eastwood, Resident Magistrate Greytown, to Shepstone 19 April 1862, SNA 1/3/11.
62. Bird to Shepstone, 6 March 1873, including Shepstone minute of 7 March, SNA 1/3/23; Lucas, Annual Report for Klip River Division, 30 Aug. 1872, SNA 1/3/22.
63. Blaine, Annual Report of Inanda Division, 18 Jan. 1867, SNA 1/3/17.
64. Statement of Umkungu, transcribed in Mesham to Shepstone, 1 Feb. 1871, SNA 1/3/21.
65. Lucas, Annual Report of Klip River Division, 30 Aug. 1872, SNA 1/3/22.
66. Blaine to Shepstone, 30 March 1871 responding to his circular asking magistrates for their opinions on the possible political consequences of Buchanan's advertisements, SNA 1/3/21.
67. Moodie to Shepstone, 19 Aug. 1862, SNA 1/3/11.
68. Inventory of trade goods allegedly stolen from Trader Dalgado, encl. in Williams, Resident Magistrate Tugela Division, to Shepstone, 6 Aug. 1863, SNA 1/3/13.
69. Transcript in the case of U'Gebuza v. Madamu, 13 March 1863, SNA 1/3/12.

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