

MEMORANDUM
ON THE
STOCKENSTROM TREATY
SYSTEM

By C. LENNOX STRETCH,
Resident Agent Among the Gaikas ; 1835—1846.

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W.G.A.M.

From the moment Sir A. Stockenstrom arrived in Grahamstown 1836 until he retired from the government of the Eastern Province in 1838, his mind was considerably diverted from the great object of his appointment owing to clamour, lawsuits, and enquiries, which consequently in proportion deprived me of his able assistance in the direction of the arduous and responsible duty which this unfortunate event imposed on me. The treaties were in consequence imperfectly worked during his administration, and I may say without fear of contradiction they were not understood or worked by the officer who succeeded him.

I shall record my opinion in reference to the proposed queries which may faintly demonstrate how unsatisfactory my position was rendered by adhering to the instructions I received in reference to the treaties from 1839 to 1846; amidst the overwhelming difficulties I had to contend with from the government, the civil and military officers, the colonists and the Caffres; for during this period some very alarming accusations were brought against me owing to the faithful discharge of the duty entrusted to me, and it was evident up to the period of my removal from office my position was not understood.

1. State superficially wherein the Stockenstrom treaties were superior in practice to Sir B. D'Urban's system.

They gave greater facilities to the colonists to recover stolen property, and the innocent could not possibly suffer for the evil deeds of his neighbour. The chiefs gave their hearty concurrence and goodwill without which no system or plan can succeed.

It was not so with the Durban system. The native authorities opposed it as supplanting their rank and importance among the people as also their authority in the native courts. The agent decided all cases, and the cattle levied as fines were placed at the disposal of government, whereby the chief's influence and cattle kraal was diminished. This circumstance particularly urged the chiefs to plot together for the resumption of their power, which the commissioner was aware of, and the Durban system was more expensive than the Stockenstrom system.

2. What were the defects of the Stockenstrom treaties and how might the defects have been supplied?

Sir A. Stockenstrom stated in the "Aborigines Committee of the House of Commons" the chiefs would not maintain the treaties,

unless they beheld a force sufficient to compel their observance. (What people or nation would?) This force was not provided and the Caffres soon discovered the error and weakness of the government to enforce the penalty attached to colonial depredations. From this neglect emanated the irregularities on both sides of the Border, and disregard eventually to the authority of the chiefs. It was the primary defect from which many others originated. The boundary was guarded, which the chiefs repeatedly complained of to government, and urged that every Caffre found in the Colony without a pass should be shot. They never complained when these extreme measures reduced the number of their followers, who were detected in the Colony stealing.

3. Did the Natives, and especially the contracting parties, consider the Stockenstrom treaties, as a whole, equitable in principles, and for what did they regard them an improvement on any previous colonial measures affecting them?

The chiefs designated the treaties as a "wall," "a great word," as affording protection to all innocent people, and that no military party or patrol would on the mere "ipse dixit" of a farmer be permitted to disturb the tranquility of the country upon false evidence as in times past, and whenever the colonial war-cry reached their ear they appealed to "Stockenstrom's words," the treaties. The chiefs were also respected and acknowledged by the government; and what might have operated most favourably had the government at an earlier period evinced also its power to control and keep their friendly feelings within bounds.

4. What were the main difficulties in the application of the treaties to depredations or other offences committed against the Colony? Mention the grounds of these difficulties and how, if at all, removable?

When thefts were committed and proved against any party and the stipulated period of the month elapsed without compensation being given by the chiefs, the government was reluctant to risk a war by insisting on the just demand. This was the greatest difficulty I experienced in the application of the treaties. This "fear of war" often induced the government to insinuate the agent was to blame whenever long standing arrear claims were demanded.

5. Have you any means of ascertaining what number of thefts were committed by Caffres within your jurisdiction under Sir B. Durban?

See Diary annexed 1840.

The reports of depredations from the office of the J.P. at Fort Beaufort were so numerous during the Durban system as to exceed 3 to 1 at any period of the same duration immediately after the treaties were introduced. Vide reports from September 1835 to December 1836 (Durban policy) and from 6th December, 1836, to 6th December, 1838 (Stockenstrom policy). Compare the same with the offences for a similar period immediately after Sir A. Stockenstrom introduced his own.

6. During what period were the treaties most fairly enforced, and what proportion did border thieving during that period bear to any other immediately before or after?

Whenever the chiefs were satisfied the government was in earnest and determination evinced, the depredations were few for some months after, and at times ceased altogether.

7. Was the principle of the treaties, viz. that of holding the contracting chiefs responsible only for offences proved to have been committed by their subjects, understood properly by the different military officers commanding at the frontier posts? Can you adduce any cases in which said officers ignorantly or otherwise did not adhere to the instructions given in the treaties for disposing of cases of depredations reported to them by the sufferers?

The principles of the treaty appeared to me to be disregarded by Lt.-Governor Hare on many occasions, and I question if it was understood by him, or the civil and military authorities under him of which numerous proofs can be adduced from the Lt.-Governor's office, also the Civil Commissioner for Albany, and the respective resident agents.

I shall mention two or three cases bearing on my opinion out of many that are on record. A farmer named van der Merwe lost his oxen near Grahamstown, and makes affidavit he traced them to the border, and reported the loss to Capt. MacLean commanding at Howies Post; this officer in his communication insisted everything had been done by the farmer which the treaty demanded under such cases. Mr. West and Col. Nare supported his views and insisted that Botman should give compensation, but when investigated the case was fully proved, that the traces of the farmer's oxen had not been brought to within 5 miles of the boundary, and yet the highest military and civil authorities insinuated on this, I was leaning to the Caffres. The document can be had from Col. Hare's office.

At the conference between the chiefs and the Lt.-Governor in 1842, after the customary bitter accusations had been expressed towards them by Col. Hare in reference to the thefts reported, that had been committed by their people in the newspapers, the chiefs requested to know "the account of cattle and horses he claimed." Instead of appealing to the three agents who were present, Col. Hare turned to Mr. Borchers, the resident justice of the peace at Fort Hare, and said "how many do

they owe?" This functionary immediately started off somewhere and returned in a few minutes with a scrap of paper on which he had pencilled 500 head of cattle and 300 horses. The agents knew nothing of this claim and stated their opinion. The demand was, however, formally made the following day at the Tyumie residence by the Lt.-Governor and his friend Mr. Borchers. The newspaper had not even recorded during the month so many, and the Agent General knew nothing about the number claimed. After this the chiefs never believed or had any confidence in the government. It will be seen from the annexed letter dated 27th June, 1839, I had remonstrated in vain at such palpable disregard of the treaties, and such acts as I have related were not infrequent after. It was only my influence with the chiefs and people that enabled me to keep things quiet as long as I did. I was single-handed, and with the exception of old Mr. Read and Mr. Niven I knew of no one in the country capable of affording me sincere advice amidst so much confusion.

Grahamstown,

June 27, 1839.

Sir,—With reference to your letter of the 25th inst. relative to the 24 and 25 articles of the treaty being disregarded, the acting Lt.-Governor requests that you will furnish him with a case in point and further explanation, in order that the officers in charge of posts may be made fully acquainted with what is required of them by said articles and all irregularity prevented.

I have the honour to be, Sir,

Your most obedient servant,

H. Hudson.

Several cases were submitted which this letter nor his order, if he issued any, prevented.

8. Were all the cases reclaimable in terms of the treaty adjusted by the chiefs in communication with your office before his Excellency's first arrival on the Frontier? If a balance remained, what proportion did it bear to the settled claims? State in what previous periods—if there were any—wherein the outstanding claims had been greater and how disposed of?

The returns annexed to this Query exhibit the state of the frontier for the six months ending 31st July, 1844—and the small balance due by the chiefs in terms of the Treaties being 2 horses and 43 head of cattle, and these were paid before the arrival of the Governor on the frontier in September 1844.

In the month of August, however, an affray occurred in the Colony between some Caffre thieves and Dutchmen in which de Lange lost his life. The delinquents escaped into Caffreland and the chiefs, having delayed in giving them up to justice, the chief Sandille co-operated with the Government for the more expeditious apprehension of the thieves by admitting a military force into his country whereby he observed "the people will see that the Government are in earnest." This force

was stationed on the ceded territory, when his Excellency arrived on the Frontier, and some of the delinquents had been secured and placed in the Grahamstown prison previously. It will therefore be seen if the Government was justified by the overthrow of the system then in operation. It surprised everyone connected with the tribes and was the commencement of the trouble which speedily followed and ended in war.

9. Were the alterations repeatedly made in the treaties necessary in practice? Characterize a few of the chief points involved in these changes; state in what respects they infringed on the principle of the treaties, or whether the introduction of them impaired the efficiency of the system, how and to what extent?

The establishment of the "not reclaimable list" was the heaviest blow ever struck on the treaties. It was arranged and carried into effect about the beginning of 1839. It was the foundation of a system under covert of the treaties, and it was the commencement of a debt against Caffreland which increased according to the inclination of reporters for the press; it was worse than the patrol system, for in that the chiefs could form some estimate of our procedure, but this "not reclaimable list" was stabbing them in the dark.

Every hoof missing from a farm, whether lost or strayed, was sure to figure in the list. Mr. Chase took advantage of it, and very naturally for him, he balanced the account not long since and the result was printed. Mr. Montagu, alluding to it in Council last year, observed, "and I have no reason to doubt Mr. Chase's paper!!"

The next alteration took place in 1840, by Sir George Napier, of a trifling character, and with the consent of the chiefs, as the alteration did not affect the principles of the treaties. It was, however, unnecessary in practice, and it appeared the Governor decided on this course to appease the clamour which prevailed against the system. He observed publicly on his arrival in Grahamstown, "Why, I thought that I should have found the frontier in a flame, but on my arrival the people laughed at me."

He wished, however, at this period of his administration to present for the acceptance of the chiefs a new treaty that had been drawn up by Judge Menzies, and which he brought from Cape Town for this purpose, but on perusing this very sly document, I declined to have anything to do with it, and the motion dropped. The attempt was then abandoned for a time, and finally accomplished by his successor Sir Peregrine Maitland. As it will be seen, the Stockenstrom treaties met with a most ungracious reception at Government House from the period they were promulgated until they were finally withdrawn, which a portion of the Cape press designated "the triumph of Truth and Justice."

10. Were the Caffer chiefs properly and fairly consulted in regard to these alterations

before they were enacted? Were they ever afterwards complained of by them, and what effect did they have on public confidence in Caffreland? Can you refer to any cases connected with your office in support of the opinion you may give on these points?

With reference to the unjust list, designated "not reclaimable," the chiefs were never consulted and Makomo one day alluded to it by remarking "that since Stockenstrom left, the Government was contented to take half the treaties," and I have recorded in reply to the 7th query the confidence in the Government declined from this period, particularly as the demands were increasing on the chiefs for cattle and horses they knew nothing about, vide the claim for 500 head of cattle and 300 horses made in 1842 by the Lieut. Governor and the Resident Justice of the Peace of Fort Beaufort, while a few months before the colonial authorities admitted and sent into Caffreland Mr. Eaton, the clerk of the peace of Albany, and the interpreter, Mr. G. Cyrus, to obtain evidence against a gang of English horse stealers who had been robbing the Colony and selling the horses to the Caffres!!!

When therefore his Excellency arrived on the Frontier in 1844, he did not condescend to consult the Heads of the Nations, but commenced at the Tail with the little chiefs at Fort Peddie, and he was told by Tzatzoe: "It was not good to get the little dogs barking at the big dogs." The Gaika chiefs were not even treated with common civility, much more were they consulted with regard to the extraordinary procedure of the colonial government on the occasion of the withdrawing of the Stockenstrom treaties, which the following limited detail demonstrates.

Detailed account of the visit of his Excellency, Sir P. Maitland, in September, 1844:—

On the arrival of the Governor in Grahamstown on Friday of September, his secretary dispatched a letter to my address desiring me to meet his Excellency at Fort Beaufort the following Monday. I accordingly went there and waited till Wednesday without receiving further intelligence. A private letter, however, that was delivered to me on Wednesday stated that his Excellency and suite had gone unexpectedly to Peddie on the Monday morning. It was also stated to me that the Government agent, Mr. Shepstone, and some ministers had been closeted on Sabbath for some hours, when it is presumed he decided on changing his route and probably the line of policy he had previously intended, from the circumstance of the notice he gave me to meet him at Fort Beaufort on Monday (the day he left Grahamstown in an opposite direction). His intentions, however, were not made known to the Lieut. Governor! On Wednesday evening I returned to the Tyumie and on passing Col. Somerset's camp I was informed: "The Governor was at Peddie and he had abolished the Stockenstrom treaties in toto"—fatal moment to his administration the Conference at Grahamstown with Shepstone and others on the Sabbath. As Col. Somerset intended starting the following day to meet the governor

at Peddie, I was requested by Sandilla, who had been anxiously awaiting my return, to write the governor in reference to a vile accusation that had been made against him in the Gazette to the effect "that Sandilla intended having him (Gazella) assassinated for his attachment to the British Government." Sandilla, well knowing that the accusation had not emanated from Gazella, but from the same source which from year to year produced the most injurious reports of war-alarming intelligence, considered the present opportunity favourable to confound his enemies, and applied for his Excellency's approval that he might meet them with his Excellency at Fort Peddie. In two days a reply was returned to the effect "that Gazella was there under British protection and when Sandilla was required by his Excellency he would send for him." The chief received his harsh and insulting reply and merely remarked when I read the letter: "I am sorry that the Government believes the liars."

About 7 days elapsed when the arrival of the Governor at Beaufort was announced to me. I went there and was present at the rejoicing and effigy burning—it was a novel sight to Tzatzoe and some influential Caffres who were standing with me in the shade on one side of the scene of riot and drunkenness, while his Excellency, Sir P. Maitland, and his son, Capt. Maitland, viewed it on the other. The natives, Hottentots, and Caffres—for many of both classes beheld it—at once perceived that clamour was triumphant.

For some days I was detained at Beaufort without any apparent object except to make me feel that my resignation would have been acceptable; the chiefs were not called; the Governor said that he would not see them. On the fourth day, however, intelligence reached me, the tribes were arming under the impression the Governor had come to fight the Gaikas, and I found a considerable body of Caffres had been ordered to place themselves between Fort Beaufort and my Residence at the Tyumie to watch the movements of the Governor. On communicating this preparation to resist territorial encroachment, I was soon informed his Excellency "would see them," and the day was fixed for the interview which convinced me the Governor did not wish to bring things to a crisis, although his own acts were all tending to do so.

The Chiefs and Amapakati assembled at the appointed time on their side of the border, but in sight of Beaufort, and I was desired to read a letter to them prior to the Conference, which had been prepared for the occasion (vide letter to my address published in the Christian Magazine, Cape Town). When the chiefs heard it and the threat contained they were silent, and the arrival of one of the aide camps informed us "the governor was ready," broke up the assembly. The chiefs on turning their eyes to the Beaufort parade beheld with astonishment the 7th Dragoon Guards drawn up. The chiefs refused to cross the boundary line. Another aide camp arrived with "orders" for the chiefs to advance. I assured the chiefs there was no danger; they believed me but requested I would ride with them.

On reaching the parade which we had to cross to the mess house of the 7th, the chiefs felt bitterly their position. It was most painful to my feelings, but I would not leave them to mix, as I might have done, with the officers and agents who were gazing at us with delight.

Soon after the Governor dismissed the parade and joined the chiefs. He spoke of the new treaties, the letter was again read, and finally told them he would send the new treaties for their approval.

The chiefs thanked the Governor for the interview, and said "yes" to everything, and the meeting broke up. It was unsatisfactory to the chiefs. They beheld in the Governor "a man of war"—this was on the 4th October, 1844—and from that moment the chiefs prepared, as was subsequently shown, for the worst, which they very justly declared was produced by the "not reclaimable list." There was no chance for them, and a debt had been made against Caffraria. Sandilla alone remained firm, opposing the chiefs for some months, and consented to the establishment of Victoria, but finding the visit of the Governor had created in his country so much opposition to the government, he "officially" tendered his resignation and country to the British Government 4 months after; he informed the government he could not control the people any longer. This offer was rejected, and he was urged to keep his people quiet, when the Governor had created the confusion. After the meeting just alluded to, some of the chiefs were upbraided for having said "yes" to everything the Governor said. "Well," observed a chief of importance, "did you not see the swords of the Dragoons?" Who would have ventured to say "no" in Fort Beaufort?

The new treaties were first read at Victoria in December, 1844, and the meeting did not conceal their feelings on that occasion. Col. Sutherland, of the Indian Army, witnessed the folly of first inviting the chiefs to meet the Lieut. Governor and then ordering the C.M. Riflemen to chase them out of the place. Maquomo retired growling like an old lion. On the 20th January, 1846, they were submitted for signature. As Maquomo took the pen, he said: "I sign for the Stockenstrom treaties," and made his cross. Soon after a confederation of all the Amakosa tribes, East and West, of the Kei, also the Tambookies was made to resist, and the signal to rise would be the smoke of the first Caffre hut burnt by the troops of her Majesty. All this was faithfully made known to the Colonial Government by the agent. To this the chiefs strictly adhered, for the heroes of Burns Hill were not molested or attacked in the advance of the troops for 25 miles through Caffre country, until Captain O'Reilly set fire to Sandilla's own hut. The troops were then attacked and driven back on Blockdrift. Can the Governor say he was not warned? Yet he has asserted that the information was wanting.

11. What was the manifest effect of his Excellency's visit on the frontier in 1844 on the working of the treaties, and in what light did the Gaika chiefs in treaty with the Colony

view the conduct of the administration towards them on that occasion?

For most rumours to the peace of the Frontier. Vide No. 10.

12. Was there anything done then or subsequently by the present Governor which counteracted the operation of the treaties i.e. prior to their formal abrogation by him? Did his own measures thereafter introduced remove the counteraction in question?

The treaties were not worked even in their defective administration from October, 1844.

13. State what objections, if any, were made by the chiefs to his Excellency's procedure towards them, or wherein they complained of the last paper he prescribed and presented for their acceptance?

The chiefs complained that the Governor had been induced by the missionaries to make the change in the country in order to obtain by force what they could not accomplish by a moral influence, to rule over their people, "to steal their people, and be magistrates and chiefs themselves." They demanded the names of the missionaries and observed Williams and van der Kemp did not act this way with God's word; Messrs. Govan, Laing, Col. Somerset and Sir Harry Darrell were present. The whole country was roused against the Gospel, and the churches and schools were from that day deserted. The chiefs were on the right spoor but it was obliterated by arbitrary measures.

14. Were the chiefs in treaty with the Government consulted on the withdrawal of the Stockenstrom treaties, or on his Excellency's own measures which were substituted in their stead?

No, and it has been observed that they would have been justified according to the rules and laws of nations had they done then what they did at Burnshill.

15. How was the public confidence affected by the various changes introduced; when and by what was it first shaken? How did the natives shew their decreasing faith in the Colonial Executive, and to what was this due?

"The not reclaimable list"; the chiefs observed, "our people steal oxen and cows, but the Government steal with the pen."

16. Were the chiefs ever threatened by the supreme officers of the Government with expulsion from their country? For what, by whom, and what effect had the menace on the temper of the chiefs and their people?

The first meeting the Lieut. Governor Hare had with the chiefs, the "Umzimvoobo was threatened to be their border," and "I will cripple you," were the unfortunate remarks which created some uneasy feelings in Caffreland. Col. Hare quarrelled with the chiefs at his first public meeting with them, and ever

after used threats which at length were so common that the Caffres entirely disregarded such language, although used more recently by Sir P. Maitland. These threats were produced by demands from the "not reclaimable list." The temper of the people was so far worked upon that the gun and powder trade was increased thereby.

17. What chiefs, if any, were cordial and efficient in complying with the requisitions of the treaties when fairly submitted? Were they the majority, and did they also represent a major part of the Gaiikas?

It was quite impossible for the chiefs who resided near the Upper boundary to observe the requisitions of the treaty from the perpetual demands made on them for cattle "supposed" to have been taken by the Caffres; they were puzzled and could not comprehend at first what it meant.

Eno and Tzatzoe, however, were more fortunate in a more retired position which combined with the just influence Mr. Niven exerted in his sacred character added to the firm disposition of the chief. The tribe was saved from the trouble which daily occurred lower down, and it is but common justice to say that during my occupancy of office I had no complaints against these two tribes. They never stole, although during the patrol system not all the artillery of Great Britain could have induced them to fear the consequences of plundering the Colony although as regarded the stipulations of the treaty, the accompanying printed official returns will speak for each of the chiefs as far as it effected them—in proof of which the prosperous state of the frontier and the great rise in the market of landed property which increased in 9 years in many instances from £400 to £3,000. This is one of the strongest proofs of the effect produced by the Stockenstrom treaties. Its opponents say that it was the wool that produced the demand for landed property.

18. What chiefs evaded the colonial claims preferred through your office? What was done by Executive to enforce redress? And what assistance did the paramount chief or others give when required against delinquents?

Tola was troublesome and eventually, at Sandilla's desire, he was punished by some troops from the Colony and 500 Caffres headed by Sandilla himself. This honourable conduct on his part was misrepresented by his enemies. Col. Hare believed them and insulted Sandilla by accusing him of assisting Tola to escape (vide official correspondence on that disgraceful affair in Seyalo country between Sandilla and Mr. Shepstone, resident agent for the Tslambie tribes.)

19. What means were proposed to Government by yourself or others within your knowledge to meet the obstacles that occurred from time to time in the working of the treaties? At what periods and how were they received

or the subject itself disposed of? Can you mention any such proposals and the cases in which they were to be made applicable?

Early in '39 I complained of a departure from the treaties and urged their observance by disregarding all stories of losses, unless it could be clearly shown the Caffres were the delinquents. I also proposed the native foreigners should not be allowed to re-establish heathen kraals in the Colony, which I found so numerous as scarcely to distinguish the Colony from Caffraria. Mr. Cole, then J.P. at Fort Beaufort, and myself proposed a rural police force for the colony adjacent to the border which this gentleman offered to conduct, but no notice was taken of these proposals, and finally I told the governor that a strong police force was absolutely necessary to work between the Great Fish River and the Kat River, or that war was inevitable. This advice was disregarded for want of funds.

20. Had the Caffres within your jurisdiction become suspicious of the intentions of the Government, when and by what was this occasioned or aggravated, how early manifested and in what form, and what knowledge had the Executive of danger to the public safety from the native turbulence and excitement, and what plan was suggested or adopted to meet the crisis?

Certainly they had, first from the unexpected removal of Stockenstrom from office,

and when the chiefs asked the cause they were told "that was no business of theirs as the queen removed much greater men than Stockenstrom." This feeling was aggravated by the unjust demands made on them. Izalie refused to attend the Quarterly Meetings in consequence ever after.

The chiefs confederacy was reported to Government by the agent Stretch. The excitement produced by the Governor's approach to the Caffre country in 1845 was known to him, and the deputation of Boers from the Orange River at the same time to prevail on the Chiefs to take part with them was also known to the Executive, and I informed them as a last warning that "war was inevitable" six months before it commenced.

When these dark clouds rolled over us, surely it was time to awake. Even the burghers were not called out. So cheap did the government estimate the Caffres, until they were roused too late to retrieve their steps by the defeat at Burns Hill.

The resident J.P. was ever a barrier to the performance of my duties. I had repeatedly complained of his interference but all in vain. He was allowed to go on until his disregard of the treaties brought the Government and chiefs into collision in the case of Heeintje and the Hottentot who was murdered March last. The law was first disregarded by the colonial authorities and was the sole cause of war declared by Government.

C. LENNOX STRETCH.

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