



Dingaan - Retief Treaty.

On 6th February 1838 the life of Piet Retief moved towards its great climax and death along with those of his entourage at the hands of Dingaan's warriors. Retief had gone to Umgungunglovo, Dingaan's kraal, as every South African child knows, to receive from Dingaan a cession of the land between the Tugela and the Umsimvubu Rivers. The grant of this land is said to have been made in a document dated 4 Feb. 1838 but which circumstantial evidence suggests might have been signed on the 6 Feb. The document which has been regarded by some as a sort of title deed to Natal is an enigma which Retief has bequeathed to historians.

The first to query the authenticity of the document was Sir George Cory amateur historian and our first professor of Chemistry, in an address which he gave to the South African Association for the Advancement of Science in Bloemfontein on 10 July 1923. On a visit to Great Britain the previous year, Sir George had found in the archives of the Church Mission Society the original correspondence and journal of the Rev. Francis Owen, a missionary living in close proximity to Dingaan's kraal at the time. A study of Owen's papers and a close scrutiny of a facsimile of the document dated 4 February and bearing the signatures of M. Oosthuizen, A.G. Greyling, B.J. Liebenberg and the marks of Dingaan and three of his Indunas suggested to Cory that the document might be a forgery.

It was alleged that the document was found in a leather wallet on Retief's body some $10\frac{1}{2}$ months after his murder "in as good a condition as on the day of its production" by E.F. Potgieter - and perhaps others. Quite what happened to this document nobody knows hence historians have only been able to subject facsimiles to critical examination and otherwise consider circumstantial evidence. A further complication is that there appear to be

two variations of the certificate on the reverse side of the document

stating that the document was found on Retief's body on 21 December 1838.

One was signed by E.F. Potgieter alone and the other signed by E.F. Potgieter, A.W.J. Pretorius, C.P. Landman, H. Pretorius, and P.D. du Preez.

Cory raised six points for examination: -

1. The curious English and spelling in the body of the treaty which surprised him since he had understood that the missionary Owen had prepared the document - and this didn't tally with his other writings.
2. Cory was also struck by the similarity of the handwriting of the treaty and the certificate of discovery which is attached to it.
3. Considering that the negotiation was between the Dutch trekkers and the Zulus, and that the British were in no measure concerned and in view of the trekkers dislike for the British government, why, asked Cory, was this treaty written in English.
4. The signatures of the witnesses aroused Cory's interest. There are three Zulu names which could not have been written by Zulus for at that time no Zulus could read or write, hence added Cory, one cannot help considering what legal or other value such signatures can have. Furthermore, Cory thought that the signatures of the Boer witnesses - or at least two of them - appeared to have been written by the same hand.
5. There is the matter of the date. The treaty is dated Feb. 4th - while Owen records in his diary of 6 Feb. after the Boers had been killed "on this day a treaty was to be signed."
6. There is a discrepancy in the accounts of the document on Retief's remains.

Each of these issues Cory examined very carefully and his contentions debated and his evidence considered in the best tradition of medieval palaeography by Prof. Gustav Preller & W. Blommaert and these were published in the *Annale van die Universiteit van Stellenbosch*, Serie B, No. 1 (Mai 1924), several copies of which are to be found in the Cory Library. However among Cory's papers there are two manuscripts: one is the translation of a paper which seems to have been written in High Dutch or German by a Prof. du Plessis - possibly Prof. J. du Plessis, Prof. of New Testament Studies in the Univ. of Stellenbosch author of *Christian Missions in S.A.*; the other by

Prof. Eric Walker who at that time was King George V Professor of History in the University of Cape Town. Walker's paper is an interesting one because he attempts to spin the coin and examine the evidence concerning the treaty from Dingaan's point of view. The paper is a long one - some 32 foolscap pages of close writing - and I can do no more this evening than give you a short summary of it but I hope I can lead you through his argument which touches on all the points raised by Cory and then makes a most fascinating final assertion.

Walker observes that English traders had occupied Port Natal since 1824 on sufferance of Chaka who had cheerfully granted Natal and its surrounding territory first to Farewell, then to King, and then to Nathaniel Isaacs. Chaka and Dingaan clearly appreciated these men for trade was profitable and on occasion their services were useful. Fynn's diary, I might add, shows that he and Chaka developed a very satisfactory relationship not least because of Fynn's horde of patent medicines which he had used to cure Chaka of a high fever. But the English were few in number and were easy neighbours. Dingaan succeeded Chaka in 1828 and he continued the policy of good neighbourliness though he disliked the traders habit of giving shelter to Zulu refugees from north of the Tugela River.

In 1835 a white man of another kind appeared. Allen Gardiner, a sea captain turned missionary visited Dingaan's kraal and spoke of a Great Spirit with queer ideas of the value of human souls and bodies - altogether a Spirit subversive of Zulu military discipline. Would the King, asked Gardiner, allow a teacher to live near his Great House to teach him and his people how to live? All things considered Dingaan thought not. So the captain departed. Nevertheless, he presently signed a paper on which two of his indunas - Umhleba and Tambuze - also inscribed their names requiring the traders to send back to their lawful sovereign runaway who might reach Port Natal. On these terms Dingaan appears to have been willing

to shut his eyes to the fact that many undutiful subjects were already living among the white men.

Now beyond the great Quashlamba Mountains (the Drakensberg) Dingaan had two enemies - the Batlokwe led by Sikonyella and his more redoubtable mother Maa Tstisti, and the Matabele led by Mosilikazi who had a great reputation among the Zulu as a conqueror and destroyer. The latter had been a rebel against Chaka and he had fled with the King's people and cattle to the upper waters of the Marico and Limpopo leaving a desert in his track.

Disquieting news reached Dingaan in his kraal at Ungungundlovo. First he learned of the Xhosa - Colonial War of 1834-5 and, although British soldiers assisted by the colonists had won the war, the land they had taken had been returned to the chiefs. This had clearly irritated some of the colonists called Boers hence they had declared that they no longer wished to be British subjects and had departed in hundreds taking with them their wives and children and their flocks and herds - and, what worried Dingaan most was that their fighting men carried long guns and rode upon horses.

These people and the covered waggons which carried their worldly possessions moved into an area flanked by the Batlokwa on the one side and the Matabele on the other. At first it looked as though their guns and horse could not save them from the might of the Matabele, but early in 1837 astounding news reached Ungungundlovo.

The Boers had made a surprise attack on the Matabele. Firing their big guns from the backs of their terrible horses, the Boers had ravaged Mosilikazi's kraals at Mosega. When they left they had taken three American missionaries away with them. One of them, Lindley, soon came into Dingaan's country, so Dingaan learned more of the fight at Mosega. Walker suggests that Dingaan put all the stories together and decided that by reason of their horses and their guns the amaBoers were dangerous, that guns and horses must be found to set against them, and that they were mortals and could be killed.

Meanwhile Dingaan learned that Gardiner had been made some sort of chief at Port Natal - he had in fact been made a J.P. in terms of the Cape of Good Hope Punishment Act - but how little authority he really had, Dingaan was unaware. Gardiner visited Dingaan again and brought the missionary Owen with him. Dingaan was clearly prevailed upon to let Owen live close to his kraal and the missionary hoped that he would be able to instruct the Zulu king and his people in the Christian faith. Moreover Gardiner was anxious to make a treaty with Dingaan. Dingaan heard that the Matabele had a treaty with the English and that the amaBoers too were getting marks on papers from chiefs beyond the mountains. Chaka more than once had marked papers giving the white man leave to live in Natal. So on June 21, 1836, Dingaan and three of his indunas had set their marks to a letter to the British Sovereign. The letter stated that he had given the white folk plenty of ground to hunt upon, but that they were always quarrelling among themselves and with his people, and sheltered runaway Zulus. Unless they stopped doing it he wanted them to go away, but the missionaries were to remain. Gardiner was chief but as he said he had no power to send back runaways, the King declared he would be satisfied if he simply sent them away and did not let them remain at the port. For the rest, the British Sovereign could have the country between the Umgeni and Faku's land near the Umsinwubu - in other words southern Natal including the port.

Soon after this event the trekkers waggons began to cross the Drakensberg and Piet Retief their leader approached Dingaan for a session of land. Dingaan played for time, begged the trekkers to recover his cattle stolen by Sikonyella, but eventually he was no longer able to delay. A crisis had been reached which Dingaan hoped to resolve by the murder of the Boer ambassadors and a surprise attack on their laager at Weenen. The question posed however is whether or not Dingaan signed a cession of land to Retief and his countrymen. After the battle of Blood River had been fought and won by the Boers under the direction of A.W.J. Pretorius, Ungungunglovo

was occupied on 21 December 1838, and on 9 January 1839 Pretorius returned to his base on the Tugela with the treaty in his possession. It was alleged that the treaty was found in a leather bag beside the bones of Retief on 21 December. How are historians to vouch for the truth of this discovery?

Walker claims that the document contains nothing that we should not expect it to contain. Since Piet Uys' commissie trek of 1834 Natal had been regarded by the Trekkers as a Promised Land; since October 1837 it was common knowledge that Retief had tried to secure the cession of the much needed territory between the Tugela and the Umsinavubu. The document purports to cede it to him for services rendered.

Since the original document was lost Walker attempted to trace its career. The document generally regarded as the original was kept in the safe at the Executive Council at Pretoria till 1900 when it disappeared. Facsimiles had been made from it at different times one of which was reproduced in a book entitled The First Annexation of the Transvaal by Dr. Leyds. But sometime before 1888 a Mr. Jeppe (probably Friederich Jeppe) sent Mr. Bird a copy of the treaty for publication in his book The Annals of Natal. Jeppe's version is substantially the same treaty as that shown in the facsimile; but it differs in many points of detail. This says Walker, may have been due to faulty copying, or to Bird's "improvements", or to faulty printing, or to all combined. But Jeppe's was made from "seen ware copie" made by J.G. Bantjes, the clerk to the Natal Volksraad, and J.B. Roedeloff, the voortrekkers waasheer (their equivalent to our Master of the Supreme Court). Since Bantjes ceased to be secretary of the Volksraad in March 1839, this copy, says Walker, was probably made before that date. Hence Walker thought that up to 1886 there were two documents in Pretoria.

Mr. A. Schmidt (whom I haven't been able to identify but who seems to have had some official position in the Transvaal Government) writing to De Volksstem on 13 July 1923 said that the original was found in a tangle of old papers in 1886 it was thereafter kept in its leather bag in the safe. Next day he corrected himself and wrote that the leather was burnt in 1886 and that the document was kept in a specially made bag. Walker wondered if it was not probable that the original from which the facsimiles were made was indeed found in 1886 among the old papers and that the 'ware copie' from which Jeppe made his version for Bird, was burnt with Retief's jagernaak in the same year. This, says Walker, may explain the differences between Jeppe's version of the treaty and the facsimiles.

The facsimiles are practically identical with a copy made by Henry Cloete, the Commissioner who took over Natal from the boers in July 1843. He saw the treaty, doubted its authenticity, but copied it after being convinced of its genuineness by the respectable character of the man who vouched for it.

Walker then made a survey of the circumstantial evidence concerned with the discovery of the treaty at Umgungunglovo on 21 December 1838.

A.W.J. Pretorius, Walker observes, mentions the finding of Retief's body and other details, but says nothing of the finding of the treaty. He was busy with the bodies of two of his friends at the time when the document was said to have been discovered. Sarel Celliers, telling his story much later, says the papers were found "free from corruption" or if kept in a closed box. D.P. Bezuidenhout, forty years later, says the treaty was found in a pocket book, white, uninjured and distinctly legible. Bantjes, Pretorius' secretary, says in his journal kept during the expedition that Retief's portmanteau was almost consumed. Some of the

papers therein were rained to pieces but some were perfect as if never exposed to the air, including the treaty, clean and uninjured as if it had been written that day with two sheets of unused paper which Pretorius used on the following day to write a despatch to Boshoff. Erasmus Smit says Pretorius showed him the Treaty and that he had meant to make a copy but never did so. Then there is Pretorius himself. In his despatch of December 22, 1838 - the day after finding - he wrote that Repief's portmanteau had been found containing his papers - one of them very much defaced, but his treaty with Dingaan is still legible; the following is a copy thereof. This is the version given by Bird though Bird apparently improved the spelling. Pretorius' version (as published) is shorter than the facsimile or Cloete's version of 1843, differs in some respects and omits E.F. Potgieter's oath on the back. Walker comments that it may be the copy of a man in a hurry unused to using the English language. Delonque, the French naturalist, who was in Zululand at the time when the treaty was said to be found also gives a version, differing again, but most closely resembling Pretorius' from whom Walker thinks he probably got it either directly or indirectly.

Pretorius' letter to Boshoff was written in Zululand on 22 Dec. On his return to Natal on January 9, 1839, he found his letter at the base camp and added a statement which he, C.P. Landman, his second in command, H. Pretorius, P. du Preez and E.F. Potgieter all signed and declared to be a literal copy of the original. On the back of the facsimile is an oath signed by E.F. Potgieter alone describing the finding of the treaty. Cloete also gives that oath. Finally Edward Parker, an Englishman with the commando, later on gave a version including the oath. He must have written from memory for his version is very garbled, he is unsure of the date of the discovery, he makes two wrong men sign the oath, but he was certain that E.F. Potgieter had found it in his presence.

Thus, says Walker, we can trace a document as nearly as we can judge identical in wording with our facsimile back to 1843, less certainly to January 1839, less certainly still to December 1838.

Can we, asks Walker, trace it back to the massacre in February 1838?

The Boer witnesses of what happened at the kraal were all killed; they can tell us nothing unless the handwriting and signatures of the facsimile can speak for them. Zulu evidence is conflicting and weak either for or against the signing of the treaty. Bantjes, says two Zulu prisoners saw it was signed but, says Walker, we need to know the questions put to the Zulu prisoners in assessing the value of their evidence. Against their word is that of Gambutshi, Dingaan's secret agent. He told the English at Port Natal on 23 February 1839 that Dingaan never acknowledged the Boers and never would. But Dingaan was then anxious to make terms with the English hence this statement too is suspect - On the other hand the King's conduct throughout lends reality to it. As touching British evidence, Halstead the Englishman with Retief, was dead; Wood, a child of twelve years of age at the time of Retief's murder and speaking two years later, says a treaty was signed; but asks Walker, how did he know? His dates are muddled and much of his evidence is plainly Zulu. Against the treaty having been signed on 4 February is the best witness of all, Owen, who says in his entry in his journal for 6 February that a treaty was to be signed, but even he leaves open the question of its signature on the 6th, the day of the massacre.

If the Treaty was not signed in February, could it have been forged in December 1838? Surely it could have been, if those who concocted it either had specimens of the signatures of the Boer witnesses - a not very probable event - or, more likely, were prepared to risk inventing signatures.

Some caution would have been necessary in placing the document in the jagersak for there were many Boers on the kopje. But it could have been done. Most of the Boers on the kopje that day, like A.W.J. Pretorius, would have been hunting for the remains of their dead friends and they would hardly all have been on the kopje at the same time. Is there anything to suggest that it was forged?

Sir George draws attention to the handwriting, and on all sides this is admitted to be a difficulty. There is much similarity between most parts of the Treaty and E.F. Potgieter's oath on the back. There are also some other facts. Parker says he was with Potgieter when he found it, yet Potgieter alone signed the oath at the back. In the statement by the five men on 9 January the two responsible heads - Pretorius and Landman - vouch for the document being an extant copy; H. Pretorius and Z. du Preez say they found it with Potgieter standing by; Potgieter says nothing at all.

As for Parker, he is a dubious character. He had been ultra-British in the middle of 1838, then he was with the Blood River Commando posing as a British agent; and, at the time of the finding of the treaty, he must have known that Major Charters, the newly arrived British Commandant at Port Natal had written to Pretorius of his intention to arrest him. He, at least, would have supported any forgery if forgery there was.

As to motive for forgery, if forgery were necessary, the need was desperate. For some time past an agitation had been going on in London and in the colony for the annexation of Natal and Pretorius was newly come from the colony and therefore aware of the clamour for annexation and a Field Cornet had been sent to tell the Boers that they were still British subjects and in terms of the Cape of Good Hope Punishment Act they would be punished if they attacked the natives; and on 16 October 1838 the Cape Governor had

made up his mind to send troops to occupy Port Natal - and, says Walker, news like that travels.

The sequence of events points in the same direction: -

On 28 Nov. Pretorius moved off from the camp on the Upper Tugela.

On 4 Dec. Charters occupied the Port.

On 6 Dec. Charters wrote bidding Pretorius to come back and threatening to arrest Parker.

On 11 Dec. the letter reached the Tugela Camp and was apparently sent off to Pretorius next day - even if it had not been sent, and Charters had his doubts, Walker thought it was difficult to believe that the news that the British had reached Port Natal was not sent after him.

16 December the battle of Blood River was fought and the Zulus repulsed.

21 December the treaty was found.

7 January On his return to Natal almost the first use Pretorius makes of the treaty is to tell Charters that he has cession decently and in order.

Now arises the last point in the discussion - which Walker thinks upsets much of the circumstantial evidence against the genuineness of the treaty. What, he asks, of the handwriting?

Walker observed that many men, especially the Cape Taught men, wrote very much alike, a large, round, sloping hand with flourishing capitals. Probably he says, they all learned from the same copy-books and, as they did not write much, continued to write as they had learnt. The various handwritings in most parts of the facsimile are of that kind. If the facsimiles are taken from a "copie figurée"^M the similarity of the different

^M A copie figurée is a copy of a document made by hand to resemble to the original as closely as possible.

portions of handwriting thereon would be accentuated by the fact that one man had copied all of them. Walker, however, was not convinced that the facsimiles were made from a copy figure but in fact from the original. But, says Walker, even if one has to fall back on the copie figurée, the handwritings of different men are clear on close inspection. Furthermore, Walker thinks that the document was prepared for the indaba on Feb. 4th and that probably Halstead the English interpreter and certainly not Owen drafted the Treaty for signature. Walker observes that the writing is that of an indifferently educated man doing his best, pulling himself together with a flourishing capital whenever his pen ran away with him. He was attempting to write legal English and doing it very badly. The proper names, Walker observes are spelt in Afrikaans probably Walker thought because Retief spelt them out for him. Walker suggests that Retief probably made a Dutch draft it and got Halstead to put/into English for presentation to Dingaan.

The Als getuigen on the left of the document Walker thought was Retief's own writing. Walker claimed to have seen several of Retief's letters and that the A of Als getuigen was unmistakable. Other scholars have found copies of the signatures of the other Boer witnesses and according to Walker the signatures on the treaty if not by the same hand are amazingly good imitations.

By way of conclusion Walker claims that we must face the almost miraculous survival of the treaty for $10\frac{1}{2}$ months and the difficulty of accepting it, he says, must not outweigh the evidence which tells in favour of survival. But says Walker one difficulty remained for him: Granted that the treaty was taken into the indaba on Sunday 4th or on Tuesday 6th February signed already by the Boer witnesses - and their names look like careful and leisurely signatures - or signed then in the King's presence, did the Zulus sign on either day? Walker thought it hard to believe for 2 reasons: -

1) Circumstantial evidence was all against it. It is conceivable, he says, that the King signed it a few minutes before the massacre, for signatures meant less to him than to the Boers; but says Walker, is this likely? All Dingaan's conduct up to the 6th February points to the fact that he did not mean to make a treaty with the Boers: his subsequent conduct speaks for itself.

2) The *als getuygen* over the Zulu names looks like a poor imitation of Retief's "*als getuygen*" over the Boer signatures. The Zulu names and the words on either side of Dingaan's mark are in the same hand. If that writing could be identified as that of Retief or some other Boer present at the indaba the mystery would be solved - but until that was done, Walker claimed that he could not get rid of the suspicion that the Zulu signatures were slipped in afterwards. By way of conclusion Walker said,

'Let the False Decretals witness that men will do for the society to which they belong many things which they would hesitate to do for their own benefit'.

Du Plessis thinks it was unlikely that Dingaan did not sign the treaty.

He does not argue on the evidence but solely on the psychological probabilities and possibilities. He claims that it was unlikely that Retief would have planned to leave Umgungunglovo without the signed treaty after spending four months to obtain the grant of land from Dingaan. Moreover he does not think Dingaan would have refused to sign when it did not matter to him whether he gave away anything or nothing while he was sparing no pains to lull any suspicions the Boers might have had. "Is it likely", asks Du Plessis, that he would disappoint them and rouse their ire, at the psychological moment that he was trying to win their confidence." The unsuspecting nature of the Boers on the morning of the murder, when their horses were already saddled for departure, points strongly to the fact that they had the signed treaty tucked away in Retief's jagern. Walker certainly abandoned his hypothesis for reasons of which I am at present unaware. There is no mention of the controversy in his book on The Great Trek published in 1938.

However, doubts still remain and it occurred to me while I was preparing this paper that with the vastly improved techniques which handwriting experts now possess that the time has come for re-submitting the facsimiles for testing. One amateur historian writing as late as 1961, I.L. Green, says that when he was a youth he was told by an old aunt of his fathers, that the treaty was drawn up by the Boers before Retief left on his visit to Dingaan. Two copies were made and the original was given to Retief. The original, he says, was not recovered and the copies later produced were those made at the same time as the original.

What fascinates me is that Cloete doubted the authenticity of the document as early as 1843. He was a legal man but I wonder if he did not accept too readily the evidence of those who vouched for it. The question remains: why did Cloete have doubts?

In the final analysis I think that the debate is only of academic interest because it is my view that whether or not the Treaty was signed is immaterial. Dingaan would never have welcomed an neighbours men who had defeated Moselikazi and Sikonyella in battle. If he did put his mark on the treaty it was because he planned to kill the Boers anyway. Besides, the European concept of cession and title was foreign to the Zulus. At most he would mean the right to use the land on sufferance. A grant on those terms rather than alienation was probably as far as any Zulu chief would go for the land belonged to the tribe. Furthermore, the land had been ceded three times by Chaka and at least once before by Dingaan - to the King of England through Gardiner. Hence even if the treaty was signed by all the parties whose names appear on the document, it is of no particular consequence and a legal fiction.

Prof. Du Plessis' analysis of the problem was translated (I think from High Dutch or German) for Sir George Cory and I am tempted to conclude with the translators comment on the issue:

"Blast Dingaan, Blast Retief, Blast Pretorius etc. for causing all this trouble."

K.S. Hunt