

# Writing on Skin: The Entangled Embodied Histories of Black Labour and Livestock Registration in the Cape Colony, c. 1860–1909

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*It has been suggested that nineteenth-century colonial states in South Africa exercised 'power without knowledge' and that 'archival government' was the product of a post-South African War alliance between the British administration and mining capital in the Transvaal. This argument privileges writing on paper as the only form of archival government. Yet the Cape Colony in the latter half of the nineteenth century used record systems founded instead on writing on skin. Paper registration had failed because there was no reliable way of linking paper identities with the human and animal skins they referred to. Faced with this problem, colonial officials resorted to using the older scheme of writing on the skins of people and animals. The resulting body marks were recorded and the registers or excerpts of registers were distributed in cheap printed form as archives enabling the reliable recognition of men and private property and of pedigree in livestock. This was the recognisable forerunner of twentieth-century registration systems of much greater reach and ambition that transcribed skin mechanically through photography and fingerprinting and so aspired to registering whole populations of people and animals.*

## The New History of Registration

The pioneer historians of registration in South Africa have, unsurprisingly, concentrated on civil registration in the twentieth century and mapped the origins, apogee and afterlives of the apartheid registering machine in some detail.<sup>1</sup> They have located the origins of the apartheid registration state firmly in Milner's reconstructed Transvaal and thus given only cursory attention to the nineteenth century.<sup>2</sup> Keith Breckenridge is sceptical about 'whether the acts of archival government – of gathering

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- 1 D. Posel, 'State, Power and Gender: Conflict of the Registration of African Customary Marriage in South Africa, 1910–1970,' *Journal of Historical Sociology*, 8, 1995, 223–56; D. Posel, 'A Mania for Measurement: Statistics and Statecraft in the Transition to Apartheid' in S. Dubow (ed.), *Science and Society in Southern Africa* (Manchester: Manchester University Press, 2000), 116–42; K. Breckenridge, 'Verwoerd's Bureau of Proof: Total Information in the Making of Apartheid,' *History Workshop Journal*, 59, 2005, 83–108; K. Breckenridge, 'The Biometric State: The Promise and Peril of Digital Government in the New South Africa,' *Journal of Southern African Studies*, 31, 2005, 267–82; and K. Breckenridge, 'The Will to Know: The Rise and Fall of African Civil Registration in Twentieth Century South Africa' in K. Breckenridge and S. Szreter (eds), *Registration and Recognition: Documenting the Person in World History* (Oxford: Oxford University Press, 2012), 357–84.
  - 2 See K. Breckenridge, 'Lord Milner's Registry: The Origins of South African Exceptionalism,' <http://history.humsci.ukzn.ac.za/files/semipapers/Breckenridge2004.pdf> accessed 20 March 2014 and K. Breckenridge, 'Progressivism unleashed: Milner and the reconstruction of South Africa, 1899–1905,' <http://hydra.ucdavis.edu/kobuk/files/vinecology/seminars/Breckenridge2009.pdf> accessed 20 March 2014.

and preserving knowledge about the colony and its peoples, and documenting the practice of government – were a necessary part of imperialism in the nineteenth century’ and goes so far as to claim that ‘the nineteenth-century history of South Africa shows that imperialism could function quite well without [such] knowledge.’<sup>3</sup>

Breckenridge sees the ‘hubristic, interventionist, Benthamite and intensely archival ... revolutionary labours’ of Sir George Grey, governor of the Cape Colony from 1854 to 1861, as the exception that proves this rule. Grey’s renovation of the Colony’s pass law system in the late 1850s in order to reap the labour harvest of the Xhosa cattle killing, he argues, was ‘a product of the logic of the registry ... an attempt to apply the technology of the archive to the control of African labour’, and its failure reflected its erroneous underlying assumption – ‘that writing was a white technological monopoly’. It was replaced within a decade, Breckenridge concludes, by a decentralised system based on ‘oral contracts’ so that the Cape Colony after Grey came to closely resemble Shepstone’s Natal and Kruger’s republic in its exercise of ‘power without knowledge’.

Breckenridge’s cursory analysis greatly overstates the extent to which the Cape after Grey abandoned ‘archival government’. Its fundamental problem was not literacy but recognition, that of infallibly tying an individual to the written record. Without technologies capable of achieving reliable recognition, the state could find no purchase on a population able to swop, shed, invent and multiply individual paper traces to elude official surveillance and grasp.<sup>4</sup> The problem of recognition led to the recording and elaboration of forms of indelible biometric writing on the skins of black subjects and settler livestock which, married with a travelling archive enabled by print capitalism, stabilised and expanded the reach of documentary control by making people and animals reliably recognisable. The Colony’s penal system wrote a thief’s mark on the backs of blacks convicted of stock theft with the cat-o’-nine-tails and minutely recorded the body markings of all those incarcerated in the Colony’s military and penal archipelagos, while white settlers wrote ownership marks onto the skins of their livestock with hot iron, needles and Indian ink. Both were made effective locally as the *Government Gazette* published these marks enabling myriad local archives to be assembled over time throughout the Colony, which then underpinned all the paper passes controlling blacks and livestock.

## Writing on Paper

Dissatisfaction with Grey’s pass system was widespread on the eastern frontier by the 1860s. Settlers blamed the ‘indiscriminate and loose’ issuing of passes and

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3 K. Breckenridge, ‘Power Without Knowledge: Three Nineteenth Century Colonialisms in South Africa’, *Journal of Natal and Zulu History*, 26, 2008, 4.

4 See J. Caplan, ‘This or That Particular Person: Protocols of Identification in Nineteenth-Century Europe’ in J. Caplan and J. Torpey (eds), *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton: Princeton University Press, 2001), 49–66 for the problem of recognition, and K. MacKenzie, *Scandal in the Colonies* (Melbourne: Melbourne University Press, 2004) for a Cape example.

certificates of citizenship, lack of police and a negrophile judiciary, as well as fraud, for the 'promiscuous roaming' and squatting by a large and growing black population in the Colony.<sup>5</sup> These labour registration systems were plagued more fundamentally by the fact that it was 'so difficult to describe a black man', 'the natives being all so nearly the same'.<sup>6</sup> As a result it was 'almost impossible to describe the Kafirs in a certificate so that by merely glancing over it the reader would be able to recognise whether the holder was also proprietor'.<sup>7</sup> A settler parliamentarian asked, 'Would there be any more difficulty in describing a Kafir man or woman than in distinguishing a horse or beast: are there not peculiar distinguishing marks of feature, something about every individual, which might be described shortly in a pass?' replied that

It is generally done, as far as practicable, in the passes issued now. They say a man is so many feet high, colour black, age about so and so, of such and such tribe, and so on; but I think, if a Kafir were to take over a pass from another, it would be a difficult matter for any party meeting him, from the description given in the pass to tell whether he was really the right and proper man spoken of in the pass... There is in many cases so great a resemblance that many a man unacquainted with the party holding the pass meeting such party on the road, would not know from the description in the pass whether its holder was the original holder or not.<sup>8</sup>

'The only way we have of detection', the commissioner of police complained, 'is to ask the parties with whom we find the passes their names. They are unable to give the correct answer, on account of their having forgotten the names of the parties to whom the passes have been granted and of whom they obtained them, or on account of their having forgotten to ask for the names.'<sup>9</sup> Literacy was easily bested, however, as one settler who made a rule of stopping all blacks driving cattle that passed his farm related:

I have sometimes also taken up the passes and asked the names of the bearers, to see whether they corresponded; and it happened in one case, not very long ago, that the party gave quite a different name to what appeared in the pass. I said to the man, "Oh, then this is not your pass: it belongs to some other party"; to which he replied, "Oh, that is my other Kafir name." I know it is a general rule that these natives have a Fingo name and a Kafir name, which makes it difficult to trace the owners of passes, for they are nearly

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<sup>5</sup> A91-82, Cape of Good Hope, *Return in Part Compliance with a Resolution of the Honourable House of Assembly*, 1882, 28.

<sup>6</sup> C1-62, Cape of Good Hope, *Report and Proceedings of the Committee of the Legislative Council on Kafir Passes*, 1862, 33 and C4-63, Cape of Good Hope, *Report and Proceedings of the Committee of the Legislative Council on Cattle Thefts*, 1863, 44. See also C1-62, 33 and A15-83, Cape of Good Hope, *Report of the Select Committee on the Pass Laws of the Colony*, 1883, 10 for the shocked query from a settler witness, 'But how is a man to know one Tambookie from another?'

<sup>7</sup> C1-62, 33.

<sup>8</sup> C4-63, 32. See also A91-82, 6 for the change in physical appearance over time, and A11-86, Cape of Good Hope, *Report of the Select Committee on the Pass Laws*, 1886, 17.

<sup>9</sup> C1-62, 3 and 15.

always ready with such an excuse as that given to me by the man to whom I have referred.<sup>10</sup>

The obstacles to recognition caused by the vagaries of description and naming thwarted the surveillance intent of passes and certificates of citizenship, and instead provided 'rogues ... all the protection a thief could wish for' in the form of 'legal protection to the cattle-lifter and sheep-stealer, who are by this means enabled safely to travel the highways with stolen stock, free from interference of the police'.<sup>11</sup>

The problem of recognition extended to animals as well, livestock being both the main reason for blacks seeking employment and the standard form of settler remuneration of labour in the Colony. A Fort Beaufort contractor reported 'seeing hundreds of troops of Kafirs passing into the colony for service, and then passing out again; ... I see them coming in naked and penniless, whereas when they go out again they will take with them perhaps two, three, four, five, or six beasts, and a little flock of sheep besides, with also, perhaps, a horse or two'.<sup>12</sup> Settlers maintained that blacks preferred to steal rather than earn their livestock and so they regarded all blacks as stock thieves and demanded:

A man who, during his term of service, has acquired stock on leaving his master, when his term has expired, ought to have the quantity of stock put upon his discharge, and also a description of it... When he renews that by another pass under contract, his master who takes him over should endorse on the fresh pass the number of stock he brought with him, so a proper register is always kept of what the servants possess; it would facilitate matters.<sup>13</sup>

They also wanted black servants driving settler livestock on the public roads to carry passes from their masters 'stating the number and marks of the cattle'.<sup>14</sup>

Stock theft was a crime localised to the eastern and northern borders of the Cape Colony (see Figure 1). Settlers in these areas thus demanded the extension of the pass law to livestock. The 1870 Cattle Removal Act created a parallel livestock pass system in proclaimed divisions 'for regulating the removal of stock from place to place, with the object of rendering the removal of stolen animals more difficult and the detection of offenders more easy'.<sup>15</sup> Despite its name the Act applied to 'any horse, gelding, mare, colt, filly, mule, or ass, or any bull, ox, cow, heifer, or calf, or any sheep or goat', but excluded 'stock under saddle, or pack-saddle, cattle employed in drawing any vehicle ... or stock in the possession of the police'.<sup>16</sup> The Act stipulated that

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10 *Ibid*, 34

11 *Ibid*, iii, 4–5, 15–19, 32.

12 C4-63, 43.

13 SC1-64, Cape of Good Hope, *Report of the Select Committee on Cattle Thefts, 1864*, 46–7. See also C1-62, 17–18 and C4-63, 14.

14 C1-66, Cape of Good Hope, *Report of the Select Committee Appointed by the Legislative Council to Consider and Report upon the Native Passes Amendment Bill, 1866*, 14.

15 Cape of Good Hope, Cattle Removal Act 14 of 1870, Preamble.

16 *Ibid*, section 13.

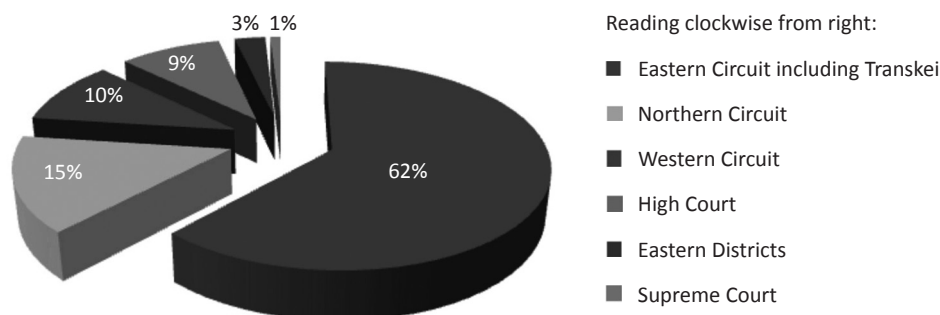


Figure 1: Cape Colony stock theft convictions in the higher courts, 1881–1909

Source: Calculated from data contained in Cape of Good Hope, *Blue Books and Statistical Registers*, 1893–1909. There are no data for the earlier period, and convictions in the magistrate's courts were not disaggregated by division in this source.

It shall be the duty of every person desiring the removal of stock from one place to any other place distant therefrom more than ten miles, to procure a certificate, signed by any resident magistrate, justice of the peace, field-cornet, or land-holder, stating the date upon which the same is granted, the name of the owner, the number and description of the stock to be removed, the name of the place from which the same is being removed, and of the place to which it is being sent; and also the name or names of the driver or drivers thereof.<sup>17</sup>

Landholders, although forbidden to charge for or refuse such passes to their labour, were allowed to demand the pass of anyone driving stock and to impound the animals if none was forthcoming or the name of the drover, description of the animals or direction of travel differed from that stipulated in the pass.<sup>18</sup> While on paper the livestock pass system was colour blind, on the ground it was only enforced on black owners thus enabling livestock stolen by settlers to travel undetected through the countryside.<sup>19</sup> The MP for Somerset East explained in 1890 that although, in terms of the Act, 'every farmer is obliged to be armed with a certificate or pass ... if a farmer were called upon to produce his pass he would consider himself insulted'.<sup>20</sup>

Implementation of the Cattle Removal Act mapped the regional distribution of stock theft being proclaimed initially along the eastern frontier from where it gradually spread west over the course of the final quarter of the nineteenth century (see Figure 2).

As well as difficulties of enforcement and fraud, livestock passes reproduced the problem of recognition already plaguing Grey's pass system for blacks: how to be

<sup>17</sup> *Ibid*, section 2

<sup>18</sup> *Ibid*, sections 3–5.

<sup>19</sup> A15–83, 48.

<sup>20</sup> A16–90, Cape of Good Hope, *Report of the Select Committee on the Stock Thefts Repression Bill*, 1890, 10.

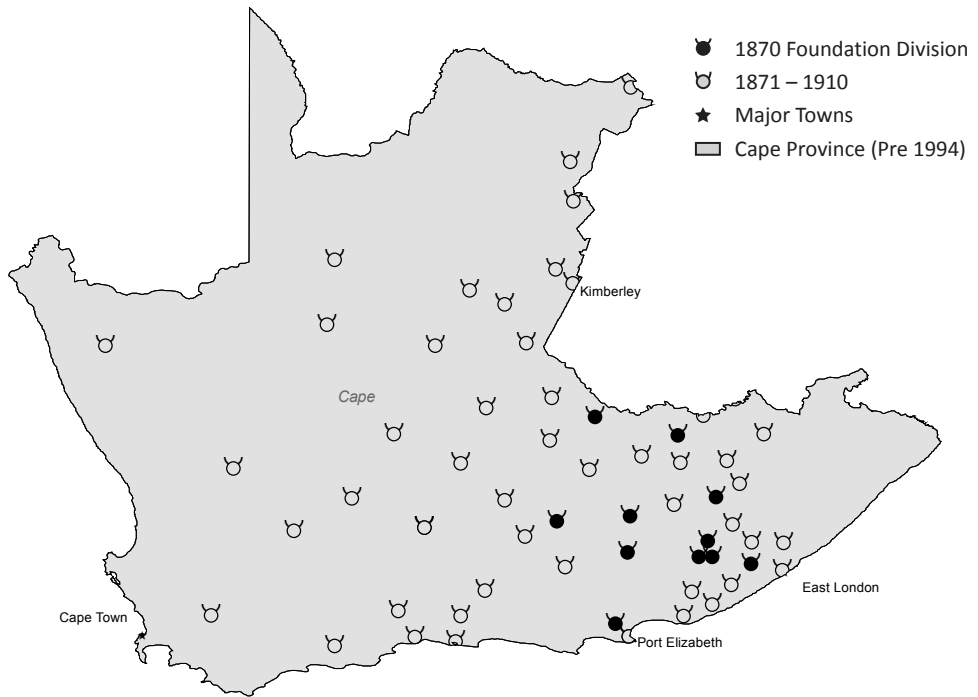


Figure 2: Cape Colony proclamation of the Cattle Removal Act, 1870–1909

Source: Compiled from data contained in Cape of Good Hope, *Government Gazette (GG)*, 1870–1909.

certain that the animals described in the pass and those travelling under it were one and the same? Thus, whereas the architects of the Cattle Removal Act intended ‘description’ to mean ‘that the marks and colour of each separate animal should be described on the pass’,<sup>21</sup> some farmers were ‘poor scholars’ and only listed the number and type of animal or wrote passes for animals they had not seen, based on their servants’ descriptions.<sup>22</sup>

The lack of ‘sufficient care in describing cattle’ in the pass made it ‘no true guide to anyone checking over cattle by pass.’<sup>23</sup> The commanding officer of colonial forces thought ‘the most advantageous system would be that when a native is sent anywhere in charge of stock, the owner of the stock should issue a very precise inventory of it so that it could be easily recognised by the description.’<sup>24</sup> Otherwise, the system enabled ‘the changing of stock, for which a pass was granted, for stolen stock; for instance, if a man loses ten or more sheep, for which he had obtained a pass of that description, he can replace them by theft; or he may sell them, and then “receive” a corresponding

21 A10–73, Cape of Good Hope, *Report of the Select Committee appointed to consider and report on the Albert and Queenstown Petitions*, 1873, 9; A12–92, Cape of Good Hope, *Report of the Select Committee on Repression of Stock Thefts*, 1892, 24 and C4–1905, Cape of Good Hope, *Report of the Select Committee on Stock Thefts*, 1905, 9–10.

22 A11–86, 18.

23 *Ibid.*, 7.

24 *Ibid.*, 12.

number to make up the quantity for which he holds a pass.<sup>25</sup> The Act also allowed landholders to issue livestock passes, 'written in such language, whether English, Dutch or native, as such land-holder may be able to write intelligibly'.<sup>26</sup> This not only precluded the development of a central registry but enabled fraud by allowing blacks to write their own passes. As the attorney-general complained in 1889, 'the writing of certificates on little slips of paper in English, Dutch or Kafir' had rendered the act a 'farce' as his English-speaking officials were frequently unable to verify individual livestock passes.<sup>27</sup>

In a bid to improve the effectiveness of the livestock pass system, the 1876 Native Locations Acts instructed every location inspector 'to keep a true and correct Register of the ... number, marks, and other description of the horses, horned cattle, sheep, and goats, belonging to every ... occupier' and ordered inhabitants 'without any request so to do, forthwith to give notice to the said Inspector ... of any horses, horned cattle, sheep or goats, which from time to time have come into the possession of such inhabitant, and of the way by which they came into his possession'.<sup>28</sup> Refusal to register or notify stock was subject to a fine of up to £2 or one month hard labour and confiscation of the animals concerned. If any of the latter were found to be stolen, the possessors were also assumed guilty until proven innocent. Two years later it was made compulsory for all location stock to be 'branded or otherwise marked in such manner as the inspector ... may require' under threat of the same penalties including the forfeiture of unbranded stock.<sup>29</sup> Inspectors, however, lacked the means to implement these measures which, the attorney-general complained in 1889, were 'strongly opposed by the natives, who also opposed the Pass Law; they opposed everything that was likely to lead to the identification of stock'.<sup>30</sup> More effective was the removal of the 10-mile and 'stock under saddle' exemptions from the Cattle Removal Act.<sup>31</sup> This, together with the spread of wire fencing from the mid-1880s and the creation of a dedicated livestock inspectorate in the 1890s to police new veterinary hygiene certification aimed at preventing the spread of scab, improved enforcement of the livestock pass law.<sup>32</sup> So too did the extension of the system of registration to the market in livestock commodities.<sup>33</sup>

The pass laws – both human and animal – required a comprehensive system of population registration in order to arrest black labour and stock theft as intended, by

25 A10-73, 9; A16-90, 3-4 and A12-92, 24.

26 Act 14 of 1870, sections 3-4.

27 A10-79, 10 and *House of Assembly Debates*, 1889, 239.

28 Native Locations Act 6 of 1876, sections 5 and 7.

29 Native Locations Amendment Act 8 of 1878, section 7.

30 *House of Assembly Debates*, 1889, 371. See also A12-92, 20-1 and 26-7 and C4-1905, 61.

31 Cattle Removal Amendment Act 20 of 1889 and Cattle Removal Amendment Act 12 of 1891.

32 See L. van Sittert, 'Holding the Line: The Rural Enclosure Movement in the Cape Colony, c.1865-1910', *Journal of African History*, 43, 2002, 95-118 for fencing; and N. Visser, 'A Space for Conflict: The Scab Acts of the Cape Colony, c.1874-1911' (Unpublished PhD thesis, University of Cape Town, 2011) for scab.

33 See A12-83; Cape of Good Hope, *Report of the Select Committee on the checking of Theft of Skins, Hides and Ostrich Feathers; Ostrich Feathers and Skins Theft Repression Act 32 of 1883; Wool, Mohair and Carcasses Theft Repression Act 19 of 1884; Ostrich Feathers and Skins Theft Further Repression Act 13 of 1885; A16-90, Cape of Good Hope, Report of the Select Committee on the Stock Thefts Repression Bill, 1890; Bill to provide for the better repression of thefts of stock, ostriches, ostrich feathers, hides, mohair, wool, Cape of Good Hope, Government Gazette (GG), 13 June 1890; Stock and Produce Thefts Repression Act 32 of 1891; Bill to make further provision for the repression of thefts of hides and skins, GG, 29 July 1892; and C4-1905, 13, 17 and 42 for the certification of legal ownership in all livestock related transactions.*



fixing African and animal identities through written passes. Such registration systems were easy to imagine, but impossible to build in the nineteenth century Cape Colony owing to the lack of revenue and the tyranny of distance created by thin communications infrastructure and administrative presence on the ground.<sup>34</sup> Instead the Colony cobbled together makeshift regional-scale registration systems within the penal system (for stock thieves and other convicts) and veterinary department (for livestock) at minimal cost to the public purse. These rough and ready registration mechanisms used biometric marks instead of paper passes to fix human and animal identities directly on the visible surfaces of the body by branding thieves and livestock alike with unique and indelible marks, and devolved responsibility for policing to local officials by distributing a printed record of these marks.

## Writing on Skin

The body is widely held to have declined in importance as the site of punishment over the course of the nineteenth century. Historians of colonial Africa, however, have pointed out that this supposedly universal trend was not manifested in the African colonies, where corporal punishment remained a routine penalty both informally and formally deep into the twentieth century.<sup>35</sup> This persistence reflected the racist assumption of colonial settlers and officials about the primitive nature of blacks and hence the need for commensurate primitive forms of punishment. The Cape Colony was no exception. Here opposition to corporal punishment was a liberal affectation of the few large port towns, where it was mobilised in defence of animals not blacks.<sup>36</sup> The settler countryside was openly contemptuous and opposed to this urban liberal sentiment and robust in its practice and defence of corporal punishment for both rural blacks and animals.

These two sites of everyday rural discipline converged in the matter of stock theft. Settlers complained that the prosecution of some 150,000 blacks for the crime of stock theft and the conviction of more than two-thirds of them in the three decades after 1880 (the only period for which statistics survive) had failed to suppress the 'crying evil' and 'great crime of the Colony'.<sup>37</sup> Claiming that sheep were 'quicker stolen now-a-days than bred', they blamed this failure on the lenience shown stock thieves by the law, police, magistracy and penal system and demanded more punitive legislation and sentencing for these 'animals' than merely 'herding' them in 'the Queen's hotel' for short spells.<sup>38</sup> Settler opinion determinedly advocated flogging as the only

34 See A8-72, Cape of Good Hope, *Report of the Select Committee appointed to consider and report on the Thefts of Stock*, 1872, x and A91-82, 22-3 for contemporary Cape examples of imagined 'self-registering machines'.

35 See D. Killingray, 'The Rod of Empire: The Debate over Corporal Punishment in the British African Colonial Forces, 1888-1946', *Journal of African History*, 35, 1994, 201-16; S. Pete and A. Devenish, 'Flogging, Fear and Food: Punishment and Race in Colonial Natal', *Journal of Southern African Studies*, 31, 2005, 3-21; D. M. Anderson, 'Punishment, Race and the Raw Native: Settler Society and Kenya's Flogging Scandals, 1895-1930', *Journal of Southern African Studies*, 37, 2011, 479-97.

36 See Act for the Prevention of Cruelty to Animals 10 of 1856; Cruelty to Animals Act 3 of 1875; Cruelty to Animals Act 19 of 1888 and Cruelty to Animals Act 3 of 1897, all of which criminalised the beating of animals in colonial urban spaces.

37 Figure calculated from data contained in Cape of Good Hope, *Blue Books and Statistical Registers*, 1893-1909 and *House of Assembly Debates*, 1884, 114 and see *House of Assembly Debates*, 1889, 370 for the quotes.

38 *House of Assembly Debates*, 1884, 111; A3-89, Cape of Good Hope, *Report of the Select Committee on Masters and Servants Acts*, 1889, 9; A12-92, 77 and C4-1905, 50.



solution, openly nostalgic for the recent past when field cornets could beat recalcitrants upon request and stock theft was a capital offence in Britain. This attitude was all the stronger as the Colony refused to banish stock thieves to Walvis Bay, St Helena or Mauritius as many settlers wanted.

On the question of whether it was better to touch 'the thief's pockets or his hide', the overwhelming majority of settlers favoured using 'the cat to scratch a man's back raw ... not as a punishment merely; but ... as a brand mark to be left on them to denote that they are felons.'<sup>39</sup> Even those settlers burdened by 'sentimental objections' to corporal punishment as 'thoroughly demoralising and degrading' recognised the 'one good effect it would have' on a thief, that 'he would be branded'.<sup>40</sup> Settlers asserted from their own experience that 'the terror of the lash' was 'the only thing that will prevent the Kafir from stealing.'<sup>41</sup>

It is a disgrace to him as long as he lives. Anything that can touch the Kafir so as to bring disgrace to him is felt by him, and that is the only plan of teaching the Kafir – touch him with the lash. His back shows as long as he lives that something has gone wrong with him. He fears that, and that would prevent a deal of stealing.<sup>42</sup>

The Colony had reserved the right to corporal punishment for itself since the abolition of slavery, but worried that settlers, reacting to endemic stock theft, would 'forget themselves' and 'take the law into their own hands'.<sup>43</sup> To forestall lynch law in the countryside, magistrates were empowered to inflict up to 36 lashes on recidivist stock thieves in 1864 and up to 25 on first offenders three years later, but settlers demanded that the flogging of stock thieves for a minimum of 12 and a maximum of 50 blows become compulsory upon conviction.<sup>44</sup> Unlike under the Masters and Servants Acts, where masters opposed the use of 'the cat-o-nine-tails' or 'any cutting instrument' in favour of a 'leather strap or sjambok', the 'cat' became the preferred means of putting a highly visible, indelible and universally decipherable mark on the skins of black stock thieves.<sup>45</sup>

Corporal punishment was inflicted on an industrial scale by the penal system in the final third of the nineteenth century, although there are only statistics for the latter part of this period (see Figure 3).

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39 *House of Assembly Debates*, 1884, 110; C4-1905, 35 and A12-92, 40.

40 *House of Assembly Debates*, 1884, 109 and C4-1905, 42.

41 C4-63, 57 and *House of Assembly*, 1884, 110 and 112. But see A12-92, 30 and C4-1905, 5–6, 63 and 69 for a dissenting police opinion on the value of flogging as deterrent to theft.

42 C4-63, 57.

43 A26-59, Cape of Good Hope, *Petition from Certain Inhabitants of the Fieldcornetcy Fish River, District of Somerset*, 1859; A31-59, Cape of Good Hope, *Petition of certain Sheep Farmers and others Residing in the Division of Somerset East*, 1859; *House of Assembly Debates*, 1884, 109–11 and *House of Assembly Debates*, 1889, 370.

44 Cattle Theft Repression Act 16 of 1864, section 12, Cattle Theft Repression Amendment Act 17 of 1867, section 2; Cattle Thefts Extended Punishments Act 18 of 1879 and *House of Assembly Debates*, 1884, 109–12 and 196–7. 'Cattle' included horses, mules, asses, sheep and goats, but Act 17 of 1867 excluded small stock (sheep and goats). First-time thieves of sheep and goats were thus exempt from flogging until 1879.

45 A3-89, 2, 6, 21 and 26. See A3-89, 13 and 17 for opinion in favour of the cat and A3-89 for unanimity against flogging whites under any circumstances.

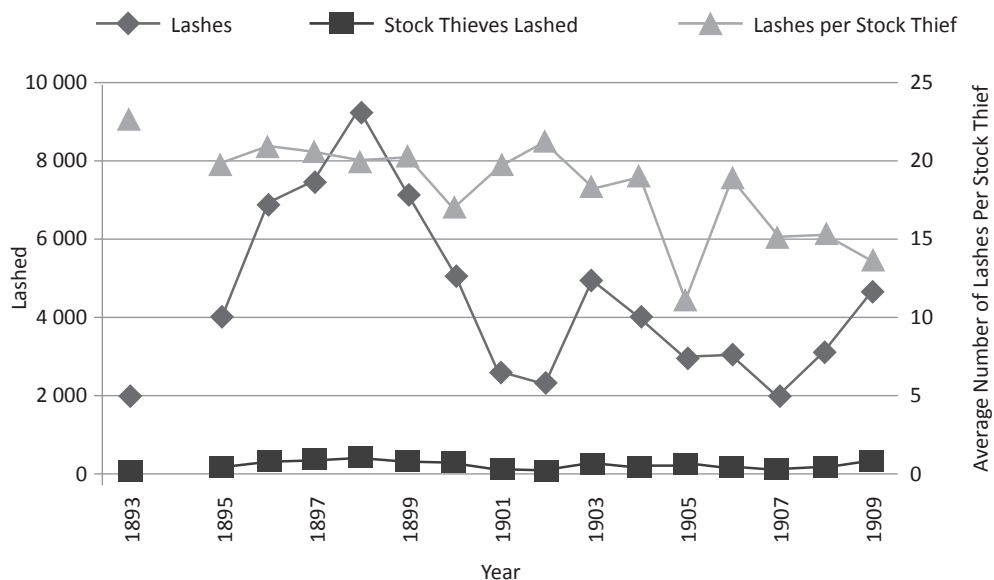


Figure 3: Cape Colony: Stock thieves flogged at convict stations, 1893–1909

Source: Calculated from data contained in Cape of Good Hope, *Blue Books* and *Statistical Registers*, 1893–1909. The colonial convict stations did not record corporal punishment before 1893.

Between 1893 and 1909 stock thieves comprised half the more than 40,000 new prisoners incarcerated annually in the Colony's convict stations and one-fifth of them (some 4,000 men) were flogged each year as part of their sentence. They received more than 75,000 blows in total, two-thirds of all lashes inflicted at convict stations over the period, at an average of more than 18 lashes per man<sup>46</sup> – 'because', as the commissioner of police explained, a stock thief, 'if he is properly flogged ... carries the mark to his grave and is branded all his life as a bad character.'<sup>47</sup>

The branding of criminals was an ancient practice in Europe. The British military continued to brand deserters until 1871, more than 300 of them absconding in the Cape Colony alone during the nineteenth century (see Figure 4).<sup>48</sup> Military and penal reform in Britain also transformed the army and prisons into registration systems that recorded inmates' bodies in minute detail to ensure recognition and recapture in the event of escape.<sup>49</sup> The practice relied on each skin having a unique set of surface features that distinguished it from all others and was exported to the Cape

<sup>46</sup> Calculated from data contained in Cape of Good Hope, *Blue Books* and *Statistical Registers*, 1893–1909.

<sup>47</sup> A12–92, 30.

<sup>48</sup> See for example C. P. Jones, 'Stigma and Tattoo' in J. Caplan (ed.), *Written on the Body: The Tattoo in European and American History* (Princeton: Princeton University Press, 2000), 1–16; A. M. Schrader, *Languages of the Lash: Corporal Punishment and Identity in Imperial Russia* (DeKalb: Northern Illinois University Press, 2002) and R. L. Blanco, 'Attempts to Abolish Flogging and Branding in the Army of Victorian England Before 1881', *Journal of the Society for Army Historical Research*, xlii, 1968, 137–45. The number of deserters was calculated from wanted notices published in the GG, 1834–1899.

<sup>49</sup> See H. Maxwell-Stewart and I. Duffield, 'Skin Deep Devotions: Religious Tattoos and Convict Transport to Australia' in Caplan (ed.), *Written on the Body*, 118–35 and J. Caplan, 'National Tattooing: Traditions of Tattooing in Nineteenth-Century Europe' in Caplan (ed.), *Written on the Body*, 156–73.

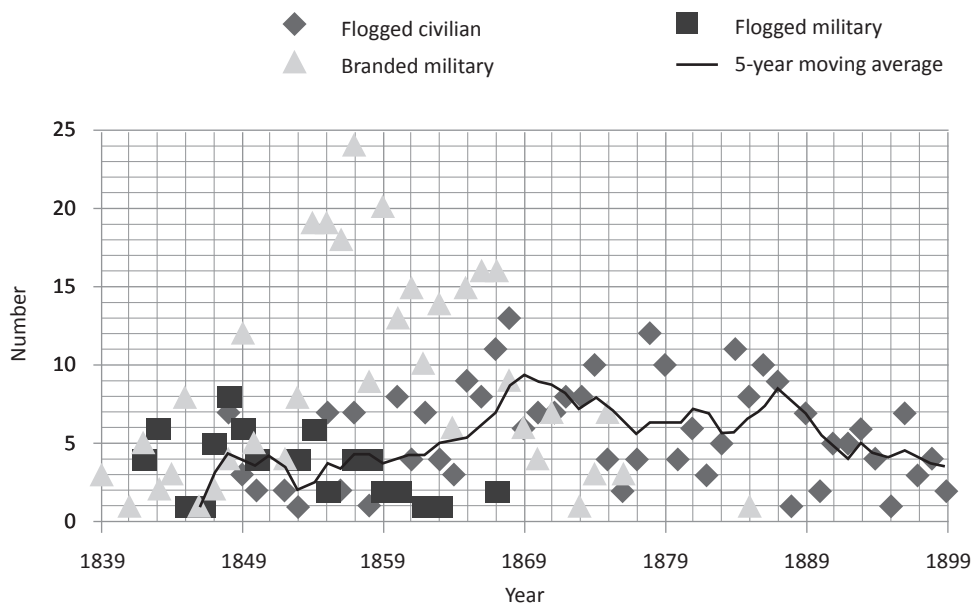


Figure 4: Cape Colony warrants of apprehension for military and civilian fugitives with marks of punishment and brands, 1839–1899

Source: Compiled from data contained in GG, 1839–1899.

Colony where it entered public discourse through the Wanted notices published in the *Gazette* for escaped soldiers, convicts and other fugitives.<sup>50</sup> Thus, for example, the ‘Bushman Hottentot’ Andries Janse alias Toby from Colesberg, sentenced to five years’ hard labour for theft, who escaped from the Kowie convict station at the end of 1873, was described as

(Bushman Hottentot), born at Colesberg, about 45 years of age, 4 feet 11 inches in height; has dark eyes, woolly hair, and yellow complexion; is a herd by occupation. Marks: Left hand disabled, scar of left side of head, tattooed on left arm, marks of corporal punishment.<sup>51</sup>

More than 10,000 notices using this standard body template were published in the *Government Gazette* between the abolition of slavery in 1838 and 1909 alone, popularising the new taxonomic convention for seeing and recording the skin marks.<sup>52</sup> As the above example indicates, the state’s marks of punishment were routinely used to identify absconders from military and penal incarceration (see Figure 4).

As Janse’s official body record shows, the marks that made individual bodies recognisable were not just written by inheritance, injury and authority, but were mixed

<sup>50</sup> See N. Penn, ‘Close and Purposeful Watchfulness: John Montagu’s Convict System in the Mid-Nineteenth-Century Cape Colony’, *Cultural and Social History*, 5, 2008, 465–80.

<sup>51</sup> GG, 1 January 1874.

<sup>52</sup> See T. S. Turner, ‘The Social Skin’ in J. Cherfas and R. Lewin (eds), *Not Work Alone: A Cross-Cultural View of Activities Superfluous to Survival* (London: Sage, 1980), 112–40.

up with various autobiographical traces. The Colony's penal and medical marking with the cat, branding iron and vaccination needle on the back and shoulders were made alongside and over and were overwritten by indigenous and creole hieroglyphs that were poorly recorded in the registers. Although the officials were familiar with the technique and grammar of the 'international folk tradition' of tattooing that grew from Europe's encounter with the Pacific in the eighteenth century, they were baffled by the indigenous therapeutic and political scripts and languages they encountered on the social skins of the Cape Colony which were not always recognised as tattoos but often transcribed as scars, cuts, marks, burns, lumps and wounds.<sup>53</sup>

Historians of tattooing stress its intimate relationship to the local social structure and hence its inherently unstable meaning and undecipherability to outsiders.<sup>54</sup> European racism further encouraged a belief that indigenous African skin scripts were merely the idiosyncratic decorative scribbles of individual primitives devoid of wider social meaning.<sup>55</sup> This assumption was reinforced in Africa by the lack of any written forms of body writing, which also precluded using indigenous Cape skin scripts in colonial administration of whole populations, as was done in India. Instead these scripts were used only to apprehend fugitives from colonial law.<sup>56</sup> By appropriating indigenous tattooing in this way the Colony extinguished its original social meanings and incorporated it into the new written registers of body taxonomy as 'distinguishing marks', empty topographic signs whose location and combination on the skin enabled deviant identities to be reliably read directly off the body.

Conversely indigenous tattoo adopted the signs of the international folk style led in the nineteenth-century Cape Colony by the British military and merchant marine and most readily acquired through labour in the towns, mines and prisons.<sup>57</sup> There is also some indication that indigenous tattoo, which was traditionally inscribed on the front skin, was redeployed to reinforce the back against the new penal skin writing of the cat (see Figure 5).

Ironically, both flogging and the self-made marks of indigenous tattooing when topographically transcribed made individual fugitive identities more legible for official and settler surveillance. Educated to the practical merits of marking and the marked skins of men, settlers envisaged a similar identifier for livestock to 'render identification of stolen stock more certain' by 'tattooing live animals upon their skin, with names and figures'.<sup>58</sup>

Both settler and black livestock owners had for a long time marked their animals to indicate their ownership. 'These are usually ear marked, generally paint marked, and sometimes branded with signs or letters, in order that they may be recognizable

53 See A. Gell, *Wrapping in Images: Tattooing in Polynesia* (Oxford: Clarendon, 1993), 8–11 and W. Cummings, 'Orientalism's Corporeal Dimension', *Journal of Colonialism and Colonial History*, 4, 2003, [http://muse.jhu.edu/journals/journal\\_of\\_colonialism\\_and\\_colonial\\_history/v004/4.2cummings.html](http://muse.jhu.edu/journals/journal_of_colonialism_and_colonial_history/v004/4.2cummings.html), on eighteenth-century history of tattooing in Europe.

54 Gell, *Wrapping in Images*, 288–315.

55 See H. Gegenbach, 'Boundaries of Beauty: Tattooed Secrets of Women's History in Magde District, Southern Mozambique', *Journal of Women's History*, 14, 2003, 106–41 and M. Vaughan, 'Scarification in Africa: Re-reading Colonial Evidence', *Cultural and Social History*, 4, 2007, 285–400 on the colonial view of tattooing in Africa.

56 C. Anderson, *Legible Bodies: Race, Criminality and Colonialism in South Asia* (London: Bloomsbury, 2004).

57 See Gell, *Wrapping in Images*, 312 on the international folk style.

58 A8–72, xiv.

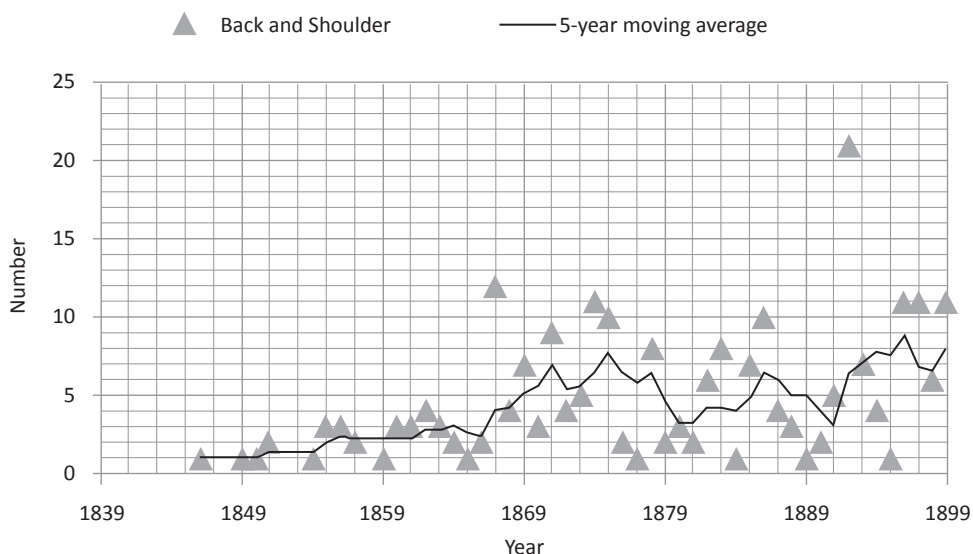


Figure 5: Cape Colony warrants of apprehension for civilian fugitives with tattooing on back and/or shoulders, 1839–1899

Source: Compiled from data contained in GG, 1839–1899.

as belonging to different owners and that the marks may be evidence in cases of theft and disputed ownership.<sup>59</sup> These marks were also transcribed in a bid to restore impounded large stock to their owners through advertisements in the settler press, as here:

Confined in the pound at Tygerhoek, beyond the limited time, one red Cow, with white patch on each side, marked right ear half-moon before, with a red-and-white calf, marked right ear swallow-tail; one red Cow with white spots on the head (bloemkop), right ear slit and a half-moon behind, with a red Heifer Calf, marked right ear swallow-tail.<sup>60</sup>

Yet, as Joseph Orpen, MP for Barkly East, noted in 1872, ‘The ordinary modes of marking animals by cutting their ears are manifestly inefficient. Such marks are limited in number, they are a cause of constant dispute and recrimination, even among neighbours, and they can be altered or the ear cut off; marks on the fleece can also be obliterated.’<sup>61</sup> Colonial officials agreed: ‘Numberless cases are continually cropping up, and some in the law courts, where two men are equally positive a sheep or goat bears *their* ear mark when it is quite possible it belongs to neither of them.’<sup>62</sup> White settlers regarded ‘stump ears’ (where the ears had been cut off) as ‘the Kafir mark’ and

<sup>59</sup> A12-92, xxx.

<sup>60</sup> GG, 18 January 1869.

<sup>61</sup> A8-72, xiv. See also C4-63, 63 and 75.

<sup>62</sup> ‘Report of J. B. Hellier, Agricultural Assistant, for June 1892’, *Agricultural Journal of the Cape of Good Hope (AJCGH)*, 28 July 1892, 105.

‘another mode of stock theft’ aimed at ‘obliterating the previous marks, and rendering it difficult, if not impossible, to identify stolen property’.<sup>63</sup> An early draft of the Cattle Removal Act thus proposed to empower magistrates to seize any sheep ‘with one or both ears entirely cut off, or with both ears so cut that the length of neither exceeds one imperial inch’ and to demand of their possessor ‘the production of positive and most satisfactory proofs of ownership’ or forfeit the animals to public auction.<sup>64</sup>

For all these reasons Orpen advocated using the human tattooing practices for livestock, noting that it ‘has long been adopted by a few as a *secret mark*, in the inside of sheep’s ears, where a name or number is printed by needles dipped in indelible ink and placed in the form of letters and projected by a spring’.<sup>65</sup>

I think a system of tattooing animals with their owner’s names on exposed parts of their bodies, as on the bare turned up tails of goats, etc, could be adopted, and if made compulsory, would do much to prevent and detect theft. Government should be moved to direct experiments to be made at once regarding a spring machine for this purpose, and regarding the best mode of tattooing stock. The public should be provided with these through the field-cornets for use at a cheap rate, and a measure introduced making their use compulsory. Upon this basis a system of registering, the names tattooed on the stock on each farm, whether of owner or of harboured person, could be made obligatory, and also the giving of deeds of sale of stock specifying marks; and this would in a great measure do away with the evils complained of arising from squatting and the skin trade. Skin-dealers could be required to furnish returns of tattoo marks, if necessary.<sup>66</sup>

Keeping proper stock books, however, was far from universal practice among settler farmers.<sup>67</sup> Orpen kept ‘perfect’ written records of his 10,000 sheep, but conceded that ‘few keep books with records of their sheep at all, so they cannot tell what number of stock they have lost within any given time’.<sup>68</sup>

The fencing of the Eastern Cape in the 1880s, by greatly enhancing settler control over land, labour and livestock, both necessitated and enabled the livestock registration system that Orpen envisaged.<sup>69</sup> Enclosure was ‘by no means an unmixed blessing’ as regards stock theft.<sup>70</sup> Not only did it reduce the supervision of flocks, but the

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63 SC1-64, vii–viii and 61 for the quotes. Also A42-65, Cape of Good Hope, *Petition of Certain Inhabitants of the District of Peddie, 1865*; A80-65, Cape of Good Hope, *Petition of Inhabitants of the Eastern Frontier District of Alice, 1865*; ‘Report of J. B. Hellier, Agricultural Assistant, for June 1892’, *AJCGH*, 11 August 1892, 119 and ‘The Tattoo Mark for Sheep’, *AJCGH*, 17 November 1892, 239 on stump ears as ‘rogue’s mark’ in Australia, where the law required that all skins be sold with the ears and a certificate from the seller, and imposed a penalty of £100 or six months for removing more than a quarter of any sheep’s ear.

64 Bill to Render More Difficult the Removal of Stolen Cattle, *GG*, 5 May 1868. If ownership was proved and the earless sheep returned, the Bill required the magistrate to issue the owner with a certificate of legal ownership and set a date by which the earless animals had to be slaughtered.

65 A8-72, viii.

66 A8-72, xiv.

67 C4-1905, 12.

68 A12-92, 56.

69 Van Sittert, ‘Holding the Line’, 95–118 and A12-92, xxvii–xxviii and xxxiii–xxxiv on enclosure.

70 A12-92, 14.

spreading 'network of fences' and trespass laws also reduced police surveillance of the countryside, creating new opportunities for stock thieves, who now concentrated on sheep and goats that could pass under or be lifted over fences, rather than cattle.<sup>71</sup> With reduced surveillance and the enhanced threat to small stock, accurate identification of ownership gained a new importance for the growing number of settlers who had discarded herding and counting for 'the false security of their fences'.<sup>72</sup> They complained that 'no system exists which prevents anyone at any time adopting any marks or changing his marks' with the intention to steal, making the magistracy reluctant 'to convict on evidence as to marks'.<sup>73</sup> They thus demanded

some system enjoined by law by which at least in the same Field-cornetcy no two persons should be allowed to adopt or retain the same marks, and by which the Police and pound masters should always possess a record of the stock marks of the inhabitants, shown by figures in a book with a page for each farm.<sup>74</sup>

The call was for the Colony to adopt the folk practice of marking animal skins in the same way that the military and penal systems had taken on the tattooing of human skins. Just as the latter was used for recognising fugitive soldiers and convicts, so brands could reliably serve to identify livestock. Tattooing relied on idiosyncracies of form, location and combination of marks to fix the identity of fugitives. It did not matter that certain motifs – hearts, crosses, stars, anchors and so on – were found on many fugitive skins because no one mark was definitive. It was the close reading of all the genetic, accidental, official and autobiographical marks spread over the whole skin that mattered. Animals were different. Their marks were always just imposed by injury or ownership. They were also commonly owned as collectives (herds or flocks) and often resistant in size and temperament to having marks put on them.

While peasant cattle pastoralists, black or white, had few enough animals to know them individually through the same close reading of their skins as for people, commercial small stock (sheep and goat) pastoralists only knew their stud animals in this way. The rest of the flock were managed as a collective. Particular identities were obscured by being bred to a standard body shape and size and for a massive fleece crop. The loss of individual sheep and goats thus often passed unnoticed and was deemed so insignificant as to barely constitute a crime if stolen. The number and uniformity of animals required a standard location and unique form of the individual owner's mark for reliable recognition. With the skin of merino sheep and angora goats given over to the fleece, the latter clustered on the only easily accessible place available – the ears.

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71 *Ibid*, xxx, 19, 32–3, 44–5, 55–7, 61, 68–73 and C4-1905, 11 and 22.

72 A12-92, 32.

73 *Ibid*, xxx and 43.

74 *Ibid*, xxx–xxxi.



The owner's mark, however, even when standardised, could easily be removed or duplicated, a likelihood that increased with distance from the farm and the direct control of the owner. Unlike the military and penal systems that used skin writing to fix individual identity, commercial small stock pastoralists tried to fix identity for a whole flock. This meant keeping strict economy of both the site of application and the sign; the first because the live animals resisted the marks being made and inspected, and the latter because every mark was repeated on tens, hundreds or even thousands of animals.

Any change of the ownership mark destabilised, endangered or altered ownership of the animal skin, living or dead. Instead of proving ownership as intended, changing or erasing the mark was enough to confound ownership because of the numbers of commercial small stock, their uniform appearance and lack of legible social skin. Thus, ownership marks on animal skins aspired to the same universal legibility as official marks of punishment. In this they were the exact opposite of the autobiographical skin writing of individual ownership on human skin intended to be read only by a limited audience of intimates or initiates into the language of signs employed. The transcription from skin to paper lost the personal significance of tattoo marks. Instead they were published simply as signs by which the law-abiding collective could identify a particular deviant. Transcription and publication was also used to transform the private marks of plural livestock ownership into universal marks of recognition legible to all owners, pound masters, police, magistrates and others literate in the print languages of the Colony.

The Brands Registration Act to 'Provide for the registration of brands, and to facilitate the identification and recovery of lost or stolen horses, cattle and ostriches' was passed in 1890, modelled on the earlier Queensland Cattle Brands Act.<sup>75</sup> It gave divisional councils the right to proclaim an order for branding livestock in their area, set up deputy registrars in each proclaimed division, and created a registrar of brands for the whole Colony. The registrar had to maintain separate registers for horses, cattle and ostriches; and

Every owner of any horse, cattle or ostrich, running in any part of any district or division, in which this Act shall be in force, may deposit the prescribed fees and make application in writing to the Registrar ... to be registered as the proprietor of one brand for horses or one brand for cattle, or one brand for ostriches, running in such district or division, or of all such brands.<sup>76</sup>

Sheep and goats were initially excluded because branding did not suit the fleece of a commercial flock. Wool and mohair farmers practised ear tattooing using imported 'tattoo pinchers' with 'short, keen, chisel-tipped needles ... formed in the shape of a letter or figure' and a 'little gunpowder or Indian ink' instead of branding which, by

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<sup>75</sup> Brands Registration Act 12 of 1890.

<sup>76</sup> *Ibid*, section 6.

the 1890s, enabled 'one man, with a sufficient number of men to catch and hold the sheep for him, ... [to mark], on an average, 1,500 sheep per day' (see Figure 6).<sup>77</sup>

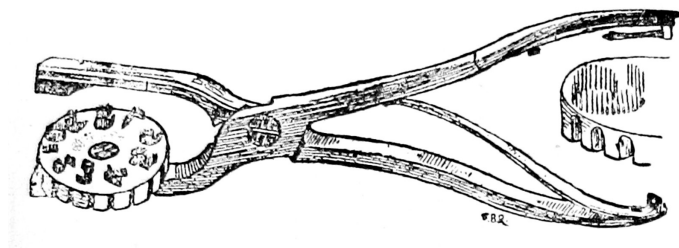


Figure 6: Tattoo machine, c. 1892

Source: 'Tattoo Mark for Sheep', *Agricultural Journal of the Cape of Good Hope*, 17 November 1892, 239.

This method was primarily used for marking stud sheep in the Colony.<sup>78</sup> The cost of tattoo machines, risks of infection and frequency of subsistence theft<sup>79</sup> discouraged its use on the increasingly unwatched general flock. Instead a paint mark on the fleece was preferred, made with pitch, tar, lamp black, boiled oil, or grease, 'visible from a considerable distance', and cut out before shearing.<sup>80</sup> The Brands Registration Act was thus amended in the mid-1890s, increasing the number of officially sanctioned ways of writing on livestock to include the 'ear ... or ... tattoo mark' of the stud and the 'pitch, paint or tar brand impressed on the wool' of commoner sheep and goats.<sup>81</sup>

Once the registrar had satisfied himself that the proposed brand or one similar to it was not already registered to another owner, and published details of the proposed brand in the *Government Gazette* and waited two months for objections, the brand could be entered in the register and a certificate of registration issued to the applicant which was transferable. The registrar had to publish new registered brands quarterly in the *Government Gazette* and an annual Brands Directory 'containing a correct and complete list of all registered brands and of names and residences of all proprietors registered for every district or division'.<sup>82</sup> 'It would not matter to what district stolen stock were taken, provided they were marked with a registered brand, for any person by glancing at the Brand Directory could tell at once to whom the stock belonged'.<sup>83</sup> Pound masters in proclaimed divisions were required to keep a copy of the directory

77 'Report of J. B. Hellier, Agricultural Assistant, for June 1892', 105 and 'Tattooing: A New Instrument', *AJCGH*, 1 June 1893, 202. Also 'Tattoo Mark for Sheep', 239.

78 'Report of J. B. Hellier, Agricultural Assistant, for June 1892', 105.

79 'Subsistence theft' refers to theft for food and involved eating the animal and either discarding the skin or selling it without the ears. There was little chance of recovering such animals, which were stolen in small numbers and dismembered and disappeared in a matter of hours, long before their owners even missed them. It only made sense to brand animals likely to be stolen 'for stock' creating a reasonable chance of recovery after detection of the theft.

80 A12-92, 76; 'Pigment or Material Used for Tattooing Sheep', *AJCGH*, 29 December 1892, 296; 'Tattoo Stock Marking', *AJCGH*, 9 March 1893, 90; 'Tattooing: A New Instrument', 202; 'Registered Tattoo Ear-Marks', *AJCGH*, 11 June 1896, 299 and 'Branding Sheep with Tar', *AJCGH*, 25 June 1896, 325.

81 See 'Report of J. B. Hellier, Agricultural Assistant, for June 1892', 105; Act 4 of 1896 and Act 4 of 1897.

82 Act 12 of 1890, sections 15-16.

83 'The Brands Act', *AJCGH*, 1 January 1903, 15.

## BRANDS REGISTRATION ACTS, Nos. 12 OF 1890 AND 4 OF 1897.

IT is hereby notified, in terms of the above Acts, that the undermentioned applications for Registration of Brands have been received.

Office of the Registrar of Brands, Cape Town, 25th July, 1904.

BARRY McMILLAN,  
Registrar of Brands.

| NAME OF APPLICANT.                      | RESIDENCE.               | DESCRIPTION | BRANDS.         |                |                         |               |               |
|---|--------------------------|-------------|-----------------|----------------|-------------------------|---------------|---------------|
|   |                          |             | HORSES.         | CATTLE.        | OSTRICHES.              | SHEEP.        | GOATS.        |
| Aberdeen.<br>(Letter or Character O A.) |                          |             |                 |                |                         |               |               |
| Erasmus, L. ... ..                      | Aberdeen ... ..          | L E         | Off Quarter...  | —              | —                       | —             | Off Side      |
| Fauche, C. ... ..                       | Kariega Rivier... ..     | F           | —               | Off Thigh      | Off Leg ...             | —             | —             |
| Fitzhenry, N. W. ... ..                 | Hare Flats ... ..        | W F         | do.             | do.            | do.                     | Offside ...   | —             |
| Gouws, C. N. J. ... ..                  | Cyfer ... ..             | C G         | —               | Near Thigh     | Both Legs               | —             | —             |
| Hansen, D. J. ... ..                    | Request ... ..           | LH          | Near Quarter    | do.            | Near Leg                | Near Side     | Near Side     |
| Hansen, D. ... ..                       | Request ... ..           | DH          | Off Quarter ... | Off Thigh...   | Off Leg ...             | Off Side      | Off Side      |
| Hansen, G. J. ... ..                    | Aberdeen ... ..          | G H         | do.             | —              | —                       | —             | —             |
| Hayward F. ... ..                       | Chelmsford ... ..        | F H         | —               | —              | —                       | Near Ear      | Near Ear      |
| Maré, G. S. ... ..                      | Oaklands ... ..          | M           | Near Neck ...   | G M Near Thigh | 8 Near Leg              | 8 Near Leg    | 8 Near Leg    |
| Meyer, H. ... ..                        | Request ... ..           | H M         | Near Quarter    | —              | —                       | Near Side     | Near Side     |
| Muller, P. H. ... ..                    | Zoutfontein ... ..       | (P)         | Off Neck ...    | Off Thigh...   | Off Leg ...             | —             | —             |
| Momberg, J. A. C. ... ..                | Vlakfontein ... ..       | F M         | Off Quarter ... | do.            | —                       | 2 Both Ears   | 2 Both Ears   |
| Oosthuizen, A. ... ..                   | Hottentots Rivier ... .. | A O         | Off Neck ...    | —              | —                       | —             | —             |
| Pienaar, P. J. J. ... ..                | Koedoeskloof ... ..      | P           | do. ...         | —              | —                       | —             | —             |
| Scholtz, A. H. ... ..                   | Van Rooyens Kraal ... .. | A H         | Near Neck ...   | Off Thigh...   | Both Legs               | —             | —             |
| Seeman, G. T. ... ..                    | Zeerputskuil ... ..      | G           | do.             | Near Neck      | —                       | Back ...      | —             |
| Theron, D. J. ... ..                    | Aberdeen .. ..           | D           | —               | Off Thigh      | —                       | —             | —             |
| Van Willing, N. ... ..                  | De Aar ... ..            | ▷           | —               | —              | Near Leg 6 on Both Legs | —             | —             |
| Weyers, J. A. ... ..                    | Mosé Kraal ... ..        | J A         | Off Quarter ... | —              | —                       | Near Side do. | Near Side do. |
| Weideman, J. C., Jr. ... ..             | Mosé Kraal ... ..        | J           | Near Neck ...   | Near Thigh     | —                       | —             | —             |

Figure 7: Cape Colony applications for brand registration, Aberdeen Division, 1904

Source: GG, 5 August 1904, 507.

and quarterly *Gazette* lists for local reference and ensure that branded animals were returned to their owners. In 1896 these responsibilities were extended to civil commissioners, field cornets and police.<sup>84</sup> The Act also made registered brands proof of ownership in court and put the onus on the accused to prove that stolen stock was 'lawfully or innocently in their possession'.<sup>85</sup>

Every proclaimed division was allocated a unique identifying letter or letters which had to 'form part of every brand to be registered for the district or division to which such letter, sign or character refers' and a registered brand had to 'consist of not more than two letters and one numeral, or of two signs or characters and one numeral, or of not more than two numerals and one sign or character' (see Figure 7).<sup>86</sup>

<sup>84</sup> The Brands Registration Act Amendment Act 38 of 1896, section 6.

<sup>85</sup> Act 12 of 1890, sections 19–20.

<sup>86</sup> Act 12 of 1890, section 13 and Proclamation 147, GG, 10 May 1892.

The location and order of brands on the animal's body was also specified because, as the registrar of brands in the Transvaal explained, 'It is essential that any passer-by should be in a position to determine who is the first and who the last owner of an animal bearing two or more registered brands'.<sup>87</sup> The Brands Act thus employed an animal body taxonomy derived from the metropole specifying the following topographical order of marking sheep and goats:

- First portion, near ear
- Second do. off ear
- Third do. underneath part of the tail
- Fourth do. inside near forearm
- Fifth do. inside off forearm
- Sixth do. inside near hind leg
- Seventh do. inside off hind leg
- Eighth do. near brisket
- Ninth do. off brisket<sup>88</sup>

If registered brand owners were bound by the new grammar to write on their animals in very particular ways, non-owners were strictly forbidden from writing on their livestock at all. The class nature of branding was evident in the 10-shilling registration fee, punitive pound fee surcharge for unbranded livestock, and penalties of up to £10 or one month's imprisonment with hard labour for unauthorised use of a registered brand and £2 for employing an unregistered brand, all of which applied in proclaimed divisions.<sup>89</sup>

The Brands Registration Act came into effect in July 1892 with the registrar of brands based in Grahamstown and the scab inspectorate acting as local registrars. The new Act, like the Cattle Removal Act before it, followed the contours of the Colony's commercial livestock economy (see Figures 8 and 9).<sup>90</sup>

The initial surge in large stock brand registrations tailed off in the mid-1890s followed by a second small stock wave which ran from the late 1890s to the mid-1900s with a dip during the South African War, triggered by the belated extension of brand registration to sheep and goats and a concomitant 75 per cent reduction of the registration fee from 10s to 2s.6d in 1897 (see Figure 10).<sup>91</sup>

By the mid-1890s progressive small stock farmers and officials had come to see branding as more than simply a deterrent to theft, but a way towards much-needed improvements in the hygiene and bloodline of the Cape's commercial flock by enabling the enforcement of anti-scab legislation and the registration of pedigree.

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87 J. J. Pienaar, 'Branding and Fencing in the Transvaal', *Transvaal Agricultural Journal*, 30 August 1910, 220.

88 Proclamation 240, GG, 18 August 1903, 570.

89 See Act 12 of 1890, section 15 and Act 38 of 1896, section 3.

90 See Brands Registration Act Amendment Act 18 of 1892, which removed the constraint that the 1890 Act could only be extended to contiguous divisions and opened up the newly annexed Bechuanaland territory on the northern frontier for brands registration.

91 See A12-92, 28-9; also the Brands Registration Act Amendment Act 4 of 1896 and Brands Registration Act Amendment Act 4 of 1897.

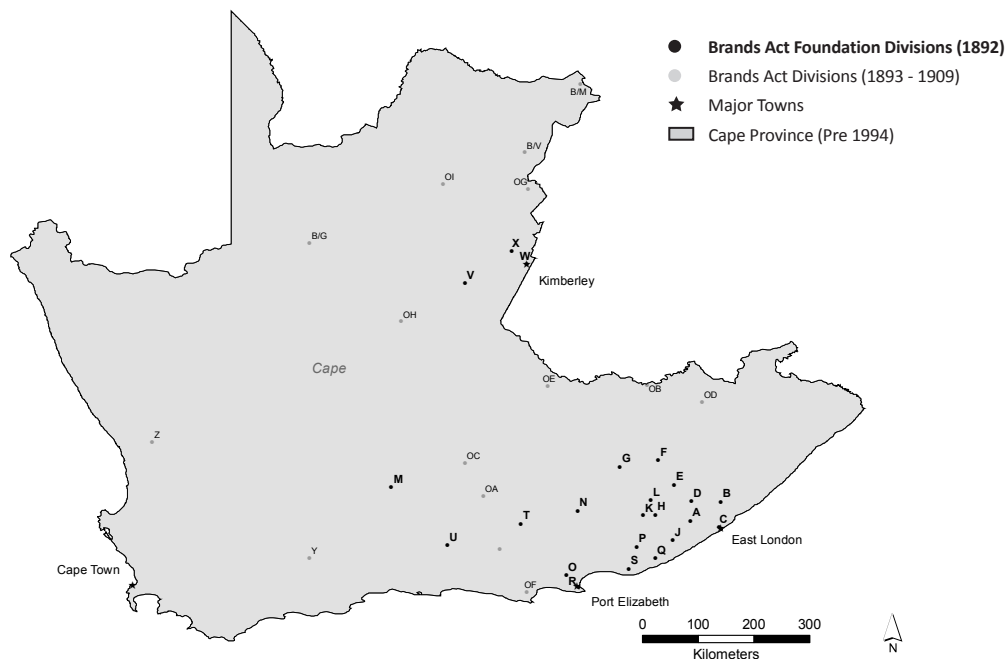


Figure 8: Cape Colony Brands Registration Act, proclaimed divisions and unique letters  
 Source: Compiled from data contained in GG, 1890–1909.

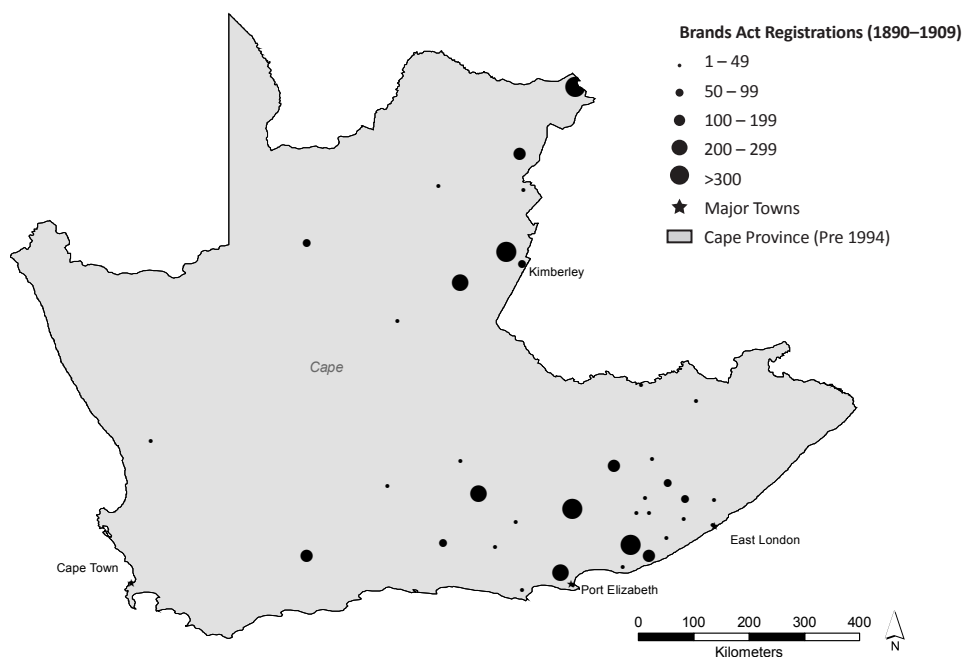


Figure 9: Brand registrations by division, 1892–1909  
 Source: Compiled from data contained in GG, 1890–1909 and Registrar of Brands, *Annual Reports*, 1892–1909.

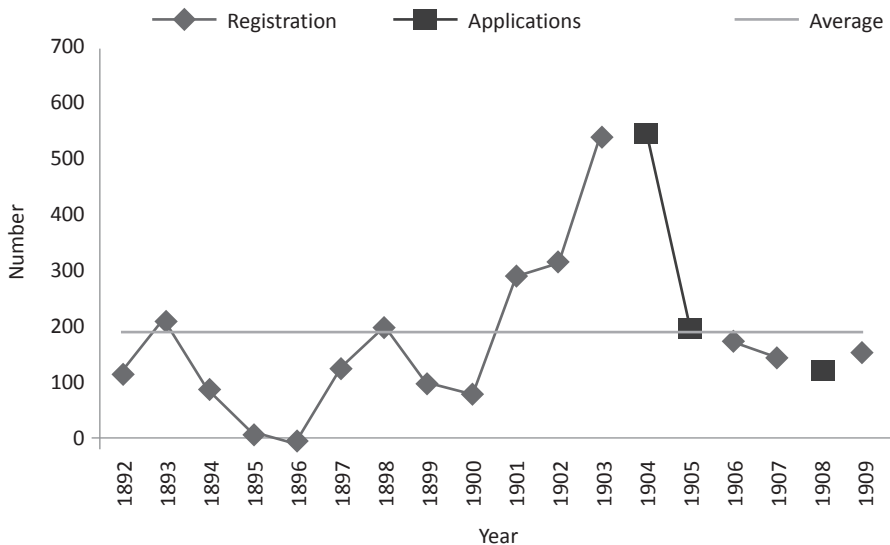


Figure 10: Cape Colony brand registrations, 1892–1909

Source: Compiled from data contained in GG, 1890–1909 and Registrar of Brands, *Annual Reports*, 1892–1909. There are no published statistics for brand registrations in 1904–05 or 1908.

The Colony’s gathering veterinary offensive against scab in the 1890s demanded a new level of legibility in small stock flocks, but the superintendent scab inspector complained in 1893, ‘A farmer often brands his sheep with the initial letters of his name. The next season perhaps he uses a bottle or stirrup iron to mark his stock with, seldom adopting the same brand two seasons in succession.’ Formalising and standardising small stock branding practices would greatly enhance enforcement of the Scab Acts by identifying miscreants and ensuring their effective punishment. ‘It is often most annoying to a farmer who holds clean sheep, to find a stray animal affected with scab running with his flocks, and it is often a most difficult, nay, impossible matter to prove ownership in such cases, for no one wishes to claim the animal and risk a law suit.’<sup>92</sup>

Progressives also held that writing the new ciphers of ownership on small stock could enhance surveillance of not just their external but internal hygiene. They were familiar with brands as certification of blood through their long dependence on imported animals from ‘the world’s depot of pure bred stock’, Britain.<sup>93</sup> There the sheep stud book societies employed official tattooers and trade marks that were detailed on the export certificates accompanying animals arriving in the Cape.<sup>94</sup> In theory all the buyer had to do ‘is to turn the ear back and look inside, when he will at once discover if the sheep is registered, and from the number following the official trade mark, on

92 ‘Brands and Ear Marks on Sheep: Extract from Letter of Superintendent Scab Inspector of 30th September Last’, *AJCGH*, 30 November 1893, 467. The 1895 Scab Act made owners of infected sheep that trespassed liable for damages.

93 Stud Books for South African Stock, *AJCGH*, 5 January 1899, 91.

94 ‘Registered Tattoo Ear-Marks’, 298.

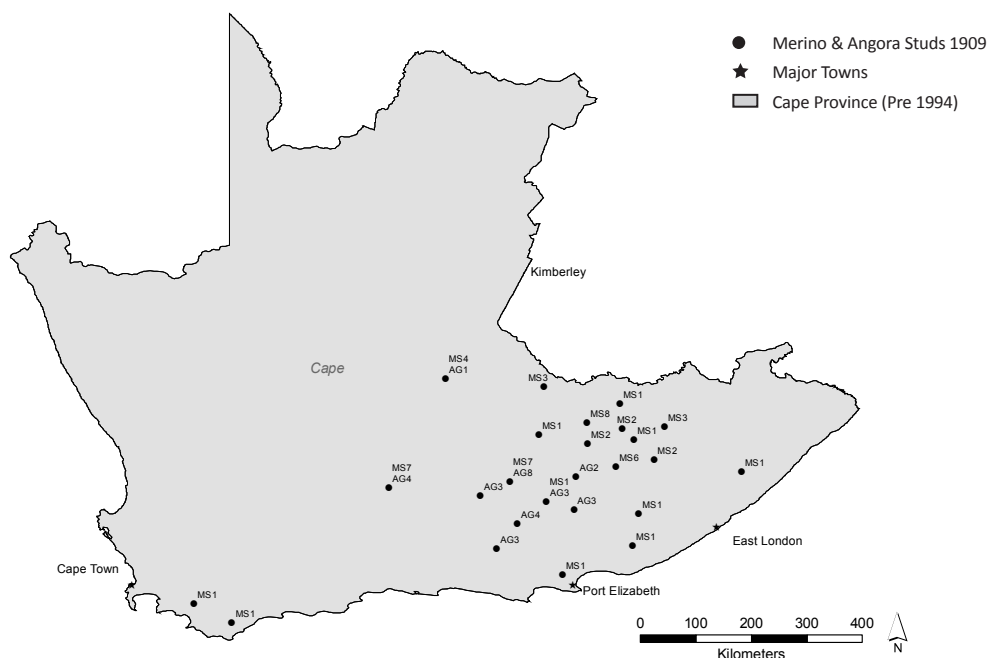


Figure 11: Cape Colony merino sheep and angora goat studs, c. 1909

Source: Compiled from data contained in the *South African Stud Book*, 1906–9.

reference to the flock book, discover the breeder.<sup>95</sup> In reality, local buyers of pure blood stock had no access to foreign ‘flock books’ and hence ‘no means of tracing their progeny or identifying them’, making them vulnerable to fraud and reinforcing their dependence on imports for ‘guaranteed pure sires ... most of which we should breed, and could, if we had a properly conducted stud-book.’<sup>96</sup>

C. G. Lee, an MP and prominent angora goat farmer, ‘personally paid as high as £125 for one animal and afterwards cut his throat as worthless.’<sup>97</sup> This experience led him to found an Angora Goat Breeders’ Association in the Eastern Cape in the mid-1880s, whose stud book by the 1900s was ‘firmly established and ... taking freely among the farmers’ owing to the ‘extreme care exercised before animals are admitted to registration.’<sup>98</sup> ‘They are submitted to close scrutiny with their progeny for three years by experienced inspectors and then only, if they come up to the standard, are they admitted.’<sup>99</sup> After the South African War, ‘when the studs and stock of South Africa had to a large extent to be replenished, and when there were large importations of stock from all parts of the world’ Lee sought to generalise his model to the Cape

<sup>95</sup> *Ibid.*

<sup>96</sup> ‘Stud Books for South African Stock’, 91.

<sup>97</sup> ‘South African Agricultural Union Annual Congress’, *AJCGH*, 1 July 1903, 246.

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*



Colony and wider 'South Africa'.<sup>100</sup> He succeeded in getting the existing stud and herd book societies to combine in a national registry and 'adopt some recognisable brand or mark upon each animal registered in the books; that such mark or brand be so secured to any such society by our Government as to prevent its use by any other person or persons, which mark shall have the same rights as a trade-mark'.<sup>101</sup> Thus all animals registered in the national stud book were 'marked with the letters "S.A." in monogram form... The mark to be placed on the right ear of cattle, goats, sheep, pigs' while 'breeders' were 'respectfully asked to keep the left ear of their progeny stock as free from marks as possible, which ear is to be utilized for Association marks'.<sup>102</sup>

By 1909 there were some 90 small stock studs registered in the Colony, two-thirds merino sheep and one-third angora goats, heavily concentrated in the Eastern Cape heartland of enclosure and branding (see Figure 11).

The pedigree sheep and goats registered in the stud book attained individual identities unique to their kind. Together they numbered at most a few thousand animals, just a tiny fraction of the colonial flock of 8.2 million woolled sheep and angora goats in 1911.<sup>103</sup>

## Writing and Registration

While it is true, as Breckenridge claims, that Grey's frontier labour registry failed, its collapse was not absolute, nor was 'documentary government' abandoned in the Cape Colony as a result. This depended not on a single master system, as in the later apartheid state, but on the endless proliferation and layering of overlapping registration schemes regionally. The eastern frontier, with its military and economic importance, was a heavily layered region in this way. Here Grey's utilitarian registry logic embodied in his renovated pass system introduced in the late 1850s, far from being discarded, was endlessly replicated so that by 1910 a multitude of overlapping registration systems covered every aspect of the Eastern Cape pastoral economy, from land and workers through merino sheep and angora goats to veterinary hygiene and pedigree. These systems worked best where the paperwork reflected the marks on people and animals so that 'power relations have an immediate hold upon it; they invest it, mark it, train it, torture it, force it to carry out tasks, to perform ceremonies, to emit signs'.<sup>104</sup>

Three new technologies greatly enhanced the anchoring of archival systems on human and animal skins on the eastern frontier: wire fencing, tattooing machines and cheap printing. Enclosure from the mid-1880s transformed the region's pastoral economy, reducing its dependence on black labour and channelling all human and

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100 'Agricultural Union. Stud book conference at Bloemfontein', *AJCGH*, 1 January 1904, 170.

101 'South African Agricultural Union Annual Congress', 245 for quote and 'The South African Stud Book', *AJCGH*, 1 July 1904, 314 on the draft rule.

102 C. G. Lee, 'The South African Stud Book: A Few Notes on the Work', *AJCGH*, 1 July 1905, 379.

103 Computed from data contained in the *South African Stud Book*, 1906–9 and Union of South Africa, *Agricultural Census*, 1911.

104 M. Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage, 1995), 25.

animal traffic onto a few main roads.<sup>105</sup> Not only were there fewer blacks moving through the region, but their ability to do so without being stopped and having to show passes for themselves and any livestock with them was dramatically reduced. The tattooing machine in turn enabled settlers to write cheaply, quickly, safely and indelibly on the ears of their small stock, solving the recognition problem that before had undermined the effectiveness of the Cattle Removal Act. Tattoos permanently fix each animal's identity and enable its ownership history, health and pedigree to be read directly off its skin, even in death. The third technology was cheap printing, so that the *Government Gazette* could be distributed weekly to officials and settlers throughout the Colony, providing a travelling archive which enabled enclosure and branding. The distributed archive was reassembled by magistrates, police, pound masters, field cornets and ordinary settlers clipping, filing and posting information from the *Government Gazette* to create myriad local archives of the skin writing on fugitive and animal bodies. In encounters with black strangers and their livestock, white settlers and officials no longer had to rely solely on the doubtful authenticity of passes, but could instead read black bodies as they did the ears of their animals for the indelible and infallible tattoo of deviant identity or stolen property by matching them to the skin transcripts of the wanted notices and lists of registered brands published in the *Gazette*. So effective was this system of devolved archiving that there is no evidence that the annual Brands Directory mandated by the 1890 Act was ever published for the Cape Colony.

One other claim by Breckenridge cannot be sustained either: that 'the kind of archival government that developed in South Africa ... emerged, not from the dynamic of conquest, nor from indirect rule or settler-dominated agriculture. It was intrinsic to the industrialisation of the economy and particularly to capital-intensive forms of labour recruitment.'<sup>106</sup> The penal and livestock registration systems of the Cape, like that established by Grey for indentured Indian labour in mid-nineteenth century Natal, were certainly the product of settler-dominated agriculture, not of industrialisation and 'capital intensive forms of labour recruitment'. Nor were they fundamentally different from the twentieth-century registration regimes of archival government. The British administration in the Transvaal after 1902, which Breckenridge regards as the blueprint for the later apartheid biometric state, faced the same problem of recognition with its new documentary pass law and employed the same practice of transcribing skins to solve it as the Cape did, using a newly identified unique feature of all people, their fingerprints.<sup>107</sup> The adoption of fingerprinting and new skin

105 See F. Lilja, *The Golden Fleece of the Cape: Capitalist Expansion and Labour Relations at the Periphery of Transnational Wool Production, c. 1860–1950* (Uppsala: Uppsala University, 2013).

106 K. Breckenridge, 'Power Without Knowledge: Three Nineteenth Century Colonialisms in South Africa', *Journal of Natal and Zulu History*, 26, 2008, 16.

107 See S. A. Cole, *Suspect Identities: A History of Fingerprinting and Criminal Identification* (Cambridge, Mass: Harvard University Press, 2001) on the history of fingerprinting and K. Breckenridge, 'Flesh Made Words: Fingerprinting and the Archival Imperative in the Union of South Africa, 1900–1930', <http://hydra.ucdavis.edu/kobuk/files/vinecology/seminars/Breckenridge2001.pdf> accessed 20 March 2014; K. Breckenridge, 'Towards a Theory of the Biometric State', <http://hydra.ucdavis.edu/kobuk/files/vinecology/seminars/Breckenridge2005.pdf> accessed 20 March 2014 and K. Breckenridge, 'Gandhi's Progressive Disillusionment: Thumbs, Fingers and the Rejection of Scientific Modernism in Hind Swaraj', *Public Culture*, 23, 2011, 331–48 on the use of fingerprints in the post-South African War Transvaal and Natal.

transcription and communications technologies expanded the reach, co-ordination and ambition of registration regimes in the twentieth century to whole populations, but at bottom they, like their colonial predecessors, remained firmly based on the skin of their subjects.