

## HOLDING THE LINE: THE RURAL ENCLOSURE MOVEMENT IN THE CAPE COLONY, c. 1865–1910

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**ABSTRACT:** The paper outlines the impetus to, trajectory and impact of enclosure in the Cape Colony between the passing of the Fencing Act in 1883 and 1910. By increasing landowners' control over their environment, fencing enabled a suite of remedial measures that raised the productivity of the commercial small-stock sector. Fences also came to stand in the stead of the landowner in defending farms against human or animal trespass. The compartmentalization of the countryside into enclosures facilitated a more general re-ordering and re-assigning of humans and animals within it, resulting in a depersonalization of rural social relations. In all these ways the enclosure movement laid the ideological foundations for the hegemony of private property and the market economy in the countryside.

**KEY WORDS:** South Africa, agriculture, animal husbandry, economic.

THE enclosure movement is a neglected theme in South African agrarian history. Over the past quarter-century much has been written about the closing of the frontier, the origins and nature of capitalism in the countryside and the creation of an African rural migrant proletariat. Land has figured centrally in all these debates, but its conversion from various forms of indigenous communal tenure to private property has been unevenly investigated. The process can be usefully divided into three phases; allocation, delimitation and demarcation.<sup>1</sup> While the wars of dispossession (allocation) and the evolution of colonial land policy culminating in the Land Acts (delimitation) have been comprehensively documented, enclosure (demarcation) has been largely ignored outside the segregated modern cities.<sup>2</sup> As R. D. Sack reminds us,

Circumscribing things in space, or on a map ... identifies places, areas or regions in the ordinary sense, but does not by itself create a territory. This delimitation becomes a territory only when its boundaries are used to affect behaviours by controlling access.<sup>3</sup>

Thus while legislative sanction for the results of military conquest and survey may have created *de jure* private property in land, demarcation was crucial to the establishment of *de facto* control by the small minority of owners against the wishes of a dispossessed majority.

South African historians have been strangely incurious about enclosure when compared to their British and American counterparts, who have long recognized its central role in converting common land to private property in their own societies. Earlier interpretations of this process as essentially

<sup>1</sup> J. R. V. Prescott, *Boundaries and Frontiers* (London, 1978), 31.

<sup>2</sup> See L. C. Duly, *British Land Policy at the Cape* (Durham, 1968) and A. J. Christopher, *The Crown Lands of British South Africa, 1853–1914* (Kingston, 1984) for the nineteenth-century delimitation of land.

<sup>3</sup> R. D. Slack, *Human Territoriality: Its Theory and History* (Cambridge, 1986), 19.

progressive, liberating or taming the revolutionary forces of a nascent capitalism in the English countryside and American west, have given way to less sanguine appraisals emphasizing the dispossession inherent in the creation of private property in land.<sup>4</sup> By contrast, South African historians, in the absence of any *pax capitalis*, have stressed coercion as the single most important factor in the establishment and maintenance of private property and capital accumulation in South Africa. Thus revisionist historians, when they have noticed it at all, have emphasized resistance to the enclosure of farms, mining compounds, urban locations and rural reserves and argued that it always rested on the simultaneous application of naked force in the final instance.<sup>5</sup> This begs the question of the long periods of quiescence in the countryside and oft-remarked-on docility of rural inhabitants in the face of settler domination. It also fails to take cognizance of enclosure as a spatial projection of power and its transformative effects on social relations.

The impact of fencing is perhaps best apprehended, not by case studies of individual localities chosen to highlight periods of resistance, but by a broader macro view of enclosure in space and time. To this end, the process will be examined on the scale of the Cape Colony over the half century after 1860. Although such a high altitude pass runs the obvious risk of flouting the historian's 'discipline of context', it also opens possibilities for new insights from the geographer's spatial perspective.<sup>6</sup> Sack regards territoriality as socially constructed and thus historically variable, reflecting the prevailing material base of the society. He defines territoriality as a strategy 'to affect influence, or control people, phenomena, and relationships, by delimiting and asserting control over a geographic area [the territory]', with very specific advantages.<sup>7</sup> Classification by area avoids the need to specify what it is that is being controlled. The use of boundaries – 'the only symbolic form that combines a statement about direction in space and a statement about possession or exclusion' – makes for ease of communication.<sup>8</sup> Finally, territoriality facilitates enforcement of control with a minimum of effort. The appeal of the strategy is obvious in the nineteenth-century Cape Colony where private property was a contested novelty, there was no *lingua franca* and indigenes vastly outnumbered settlers.

<sup>4</sup> See, for example, J. A. Yelling, *Common Field and Enclosure in England, 1450–1850* (London, 1977); M. Turner, *English Parliamentary Enclosure: Its Historical Geography and Economic History* (Folkestone, 1980); E. W. Hayter, 'Barbed wire fencing: a prairie invention', *Agricultural History* 13 (1939), 189–207 and W. Cronon, *Changes in the Land: Indians, Colonists and the Ecology of New England* (New York, 1983), 54–81, 127–56.

<sup>5</sup> See, for example, W. Worger, *South Africa's City of Diamonds: Mine Workers and Monopoly Capitalism in Kimberley, 1867–1895* (Craighall, 1987), 141–4 for mining compounds; A. Mager, "'The people get fenced": gender, rehabilitation and African nationalism in the Ciskei and Border region, 1945–1955', *Journal of Southern African Studies*, 18 (1992), 761–82 and I. Hofmeyer, *We Spend Our Years as a Tale that is Told* (Johannesburg, 1993), 59–77 for resistance to fencing in the reserves.

<sup>6</sup> See W. Beinart, 'Soil erosion, conservationism and ideas about development: a Southern African exploration, 1900–1960', *Journal of Southern African Studies*, 11 (1984), 52–83, and the rejoinder by I. Phimister, 'Discourse and the discipline of historical context: conservationism and ideas about development in Southern Rhodesia, 1930–1950', *Journal of Southern African Studies*, 12 (1986), 263–75.

<sup>7</sup> Sack, *Human Territoriality*, 19.

<sup>8</sup> *Ibid.* 32.

## THE IMPETUS TO ENCLOSURE

The expansion of European colonial settlement beyond the south-western Cape was based on the seizure of key points, usually permanent water sources, from where control was exercised over a loosely defined radius of surrounding countryside.<sup>9</sup>

Loan places ... were not surveyed, and no specific area was defined for the farm, but it soon became the custom to select the centre of a new loan place at least one hour's horse ride from that of another man. The licensee then rode his horse at walking pace for half an hour in several directions from this central point (*ordonnantie*) to mark out his boundaries.<sup>10</sup>

The *ordonnantie* was the site of the homestead, labourer's accommodation and stock holding pens, all more or less fortified against attack by human or animal assailants. The boundaries of farms, however, remained undefined, interpenetrated and permeable until the British reformed the land system in the first half of the nineteenth century by reissuing grants on perpetual quitrent after accurate survey in an attempt to fix them in perpetuity as lines on the surveyor's map and beacons in the veld. This process slowly eliminated intervening buffer zones of crown land between neighbours and began to make farm boundaries universally coterminous for the first time.<sup>11</sup> The new boundaries, however, remained potentialities, which were slow to supplant the *ordonnantie* as focal point in the landscape. As late as 1872, the MLA for Richmond reported:

Fencing in our part of the country is limited to small plots of agricultural land; and in some instances people have enclosed parks for the run of sheep, ostriches, horses, and such things. But these enclosures, as a rule, are close to the homestead, which is generally situated somewhere about the centre of the farm.<sup>12</sup>

The process of boundary demarcation accelerated rapidly in the last quarter of the nineteenth century. Unlike in the American West and Australia, where it was driven by conflict between pastoralists and farmers, enclosure in the Cape Colony derived its initial dynamic from the closure of the frontier in the Eastern Cape, which heightened a series of problems internal to the settler pastoral economy in the region.<sup>13</sup>

<sup>9</sup> L. Guelke and R. Shell, 'Landscape of conquest: frontier water alienation and Khoikhoi strategies of survival, 1652–1780', *Journal of Southern African Studies*, 18 (1992), 803–24.

<sup>10</sup> A. J. Christopher, *Studies in Historical Geography: Southern Africa* (Chatham, 1976), 48.

<sup>11</sup> C. G. Sampson, B. E. Sampson and D. Neville, 'An early Dutch settlement pattern on the north-eastern frontier of the Cape Colony', *Southern African Field Archaeology*, 3 (1994), 74–81.

<sup>12</sup> Cape of Good Hope, *Report of the Select Committee on the Fences Bill, 1872* [A18–72], Evidence of P. Watermeyer, 32.

<sup>13</sup> For the American West, see W. Prescott Webb, *The Great Plains* (Waltham, 1931), 280–318; C. H. Danhof, 'The fencing problem in the eighteen-fifties', *Agricultural History*, 18 (1944), 168–86; and E. W. Hayter, 'Livestock-fencing conflicts in rural America', *Agricultural History*, 37 (1963), 10–20. For Australia, see J. Pickard, 'The first fences: fencing the colony of New South Wales, 1788–1823', *Agricultural History*, 73 (1999), 46–69.

The first was managing the massive increase in domestic livestock populations without any prospect of further significant new land being added to the colony. The number of cattle, sheep, goats and equines near doubled from just over 13 million animals in 1865 to some 26 million by 1891.<sup>14</sup> The old system of *kraals* (corrals), herds and pounds that had policed the boundaries of private property in the unenclosed countryside of an expanding colony, was simply no longer adequate to the task following the closure of the frontier.

Second, there was mounting concern about the supposed ‘decadence’ of many older sheep-farming divisions and consequently growing hostility to kraaling as the cause of soil poverty and erosion.<sup>15</sup> Boundary fencing made the abolition of kraaling possible and internal fencing controlled grazing through the rotation of animals between paddocks.

Third, there was increasing disquiet over the health of settler livestock and in particular endemic scab among sheep, which seriously depreciated the value of the wool clip. The success of compulsory dipping, mooted since the 1870s and finally introduced in 1895, depended on fencing to quarantine clean flocks. In addition, the arrival of rinderpest on the colony’s borders in 1896–7 and east coast fever in the 1900s gave farmers added incentive to attempt to quarantine their cattle from those of their neighbours and strangers by enclosing their land.

Fourth, wild carnivores, chief among them the jackal (*Canis mesomelas*), exacted a heavy toll in settler livestock. The failure of official attempts from the 1880s to exterminate such animals through bounties and the distribution of subsidised strychnine led to a shift in favour of ‘fencing the jackal out’ around the turn of the century through the erection of armoured ‘vermin-proof’ fences made of closely strung barbed wire.<sup>16</sup>

Lastly, farmers were also hard pressed by the ‘two-legged jackal’, the stock thief.<sup>17</sup> No fewer than eleven acts dealing with stock and produce theft were promulgated in the period 1864–1910, and as many bills again failed to pass the House. The failure of all these draconian measures to provide relief was blamed by farmers on police incompetence and a negrophile magistracy, and by officials on negligent stock management by farmers. As a result, settlers increasingly looked to fencing as an effective policeman, restricting and revealing the activities of stock thieves.<sup>18</sup>

These pressures were acutely felt by self-styled progressive farmers,

<sup>14</sup> Calculated from data contained in the Cape of Good Hope, *Statistical Register*, from the agricultural censuses of 1865 and 1891.

<sup>15</sup> See R. Grove, ‘Scottish missionaries, evangelical discourses and the origins of conservation thinking in southern Africa, 1820–1900’, *Journal of Southern African Studies*, 15 (1989), 163–87; and W. Beinart, ‘Soil erosion, animals and pasture over the longer term: environmental destruction in southern Africa’, in M. Leach and R. Mearns (eds.) *The Lie of the Land* (London, 1996), 54–72.

<sup>16</sup> See L. van Sittert, ‘“Keeping the enemy at bay”: the extermination of wild carnivora in the Cape Colony, 1889–1910’, *Environmental History*, 3 (1998), 333–56; and W. Beinart, ‘The night of the jackal: sheep, pastures and predators in South Africa, 1900–1930’, *Past and Present*, 158 (1998), 172–206 for the later period.

<sup>17</sup> ‘The extermination of jackals’, *Agricultural Journal of the Cape of Good Hope*, 32 (1908), 376.

<sup>18</sup> Cape of Good Hope, *Report of the Select Committee on the Fencing or Enclosing of Land 1889* [A10–89], Evidence of A. Douglass, 23.

caught between the hammer of a steadily depreciating wool price abroad and the anvil of declining pastures, flocks and wool clip at home, for whom trespass threatened to undermine implementation of scientific farming methods aimed at maximizing the return from their land and livestock.<sup>19</sup> Kraaling, disease, carnivores and thieves all detracted, directly or indirectly from the market value of the farm, its holdings and produce and thus the bottom line of the progressive farmer. Enclosure offered both a potential solution to these problems and enhanced the cash value and return of the farm.

Settlers' links to both the land and the market were tenuous, however, imperilled by subdivision, lease, mortgage, debt and drought; most lacked either the means or motivation to embrace enclosure beyond the old *ordonnantie*. Their co-operation, whether willing or otherwise, was essential for the progressives on both economic and ideological grounds. For no matter how well progressive farmers protected their land and livestock, unless the negligent practices of the majority were curbed, the imagined desiccation of the countryside would continue, Cape wool prices would remain low and jackals and thieves would find sanctuaries in their midst from which to raid flocks.

Fierce individualists all, progressives were reluctantly forced to recognize that they were also part of a collective, which they had to convert by persuasion or prosecution if they were to survive. Forcing their opponents to share the burden of enclosure, they believed, was a good way to instil in them an appreciation for the market value of private property, which was the cornerstone of the new economic order.

The early enclosure of homestead kraals, parks, gardens and cultivated fields relied on whatever natural materials were to hand. By the mid-1870s, no fewer than eight types of 'fence' were recognized, made of wood (posts-and-rails or palings), earth or stone (banks, walls and ditches), vegetation (hedges or other live plants), wire, or a combination of all of these, as well as 'natural boundaries' such as mountains and water courses.<sup>20</sup> The colony, however, was poorly endowed with natural fencing materials, which were unevenly distributed and quickly depleted, making them unsuitable for the extensive enclosure of farm boundaries, which came to rely increasingly on imported wire (see Fig. 1). At the end of the century, it was reported:

By far the most common fence in the Colony is made of five to seven wires (the top one generally barbed), supported on wooden standard posts, 15 to 25 feet apart, and the wire bound together by a single, or better, a double wire lacing every 5 or 6 feet. The cost per mile may be roughly stated at £45–£55, depending to some extent upon the initial cost and the outlays on carriage of the posts, as well as upon the strength and numbers of wires used.<sup>21</sup>

The cost of wire fencing was dictated by its function and form. Thus, while the standard height of fences was around four feet, a cattle fence

<sup>19</sup> H. B. Thom, *Die Geskiedenis van die Skaapboerdery in Suid-Afrika* (Amsterdam, 1936), 195–205; and Beinart, 'Soil erosion, animals and pastures'.

<sup>20</sup> *Cape of Good Hope Government Gazette [CGHGG]*, 4662, 29 May 1874, 'Bill to Encourage the Erection of Dividing Fences in this Colony', Clause II.

<sup>21</sup> R. Wallace, *Farming Industries of Cape Colony* (London, 1896), 336.

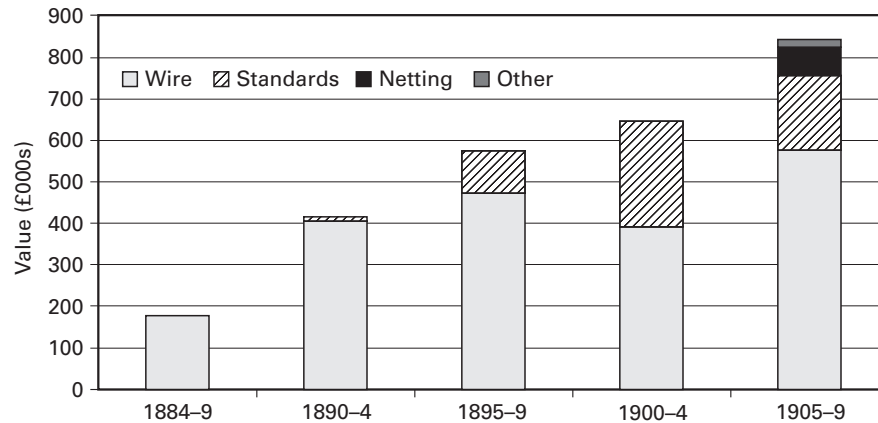


Fig. 1. Cape Colony imports of wire and other fencing materials, 1884–1909. *Source:* Compiled from *Statistical Register*, 1884–1909. Before 1884 wire, etc was undifferentiated under the customs heading ‘Hardware’.

required only four wires, compared to the six needed to enclose sheep and goats. The number of barbed wires, lacings, droppers and straining posts, as well as the distance between fence posts, further determined the strength, as well as the cost, of the fence. The maximum use of all of these over minimum distance, for example, was what made vermin-proof fences so prohibitively expensive.

Whereas the choice of basic form was limited, savings could always be effected in the materials used. Galvanised heavy gauge wire was a prerequisite at the coast to prevent rusting in the salt air, but in the dry interior, light gauge iron wire sufficed at lower cost. Similarly, while the ‘heartwood’ of sneezewood and olive or imported iron standards were recommended for posts, cheaper alternatives were available in the form of inferior cuts and a range of softer woods. Lastly, while some farmers employed specialist fencing contractors, most economized by using their own workers to construct fences.

Such savings were often a false economy, as the cheap fence was quickly found out through exposure to the elements and the peregrinations of people and stock. Even those built to ‘stand for a generation’ required constant maintenance to repair the slow attrition and occasional direct assault of the environment, animals and humans. Fire was the most unpredictable and lethal enemy of fences, incinerating posts and rendering wire too brittle to restrain without breaking. Floods too could obliterate fence lines and, while farmers tried their best to estimate the maximum flood level, they were constantly caught out to their cost. Water also acted more subtly to erode river banks and top soil, collapsing posts, opening sluits under fence lines and sparking avalanches. On the high ground, snow falls buried fences for months at a time during winter. Wild animals were another threat to the integrity of fence lines, antbears tunnelling under them and baboons lifting them to create ingress for jackals and other stock predators.

The human enemies of fences were many, but they shared a common enmity against dispossession and refusal to recognize the newly visible assertion of private ownership represented by the fence. Enclosures were

thus always more or less vulnerable to the resentment and retribution of neighbours or strangers and required constant patrolling. Everywhere, wire was weighed down, twisted up and cut off and posts chopped down and pulled out to reassert the right of access and movement of people and animals across the new artificial vertical borders erected over an otherwise flat earth.

#### THE PRIVATE ENCLOSURE MOVEMENT, 1883–1910

The enclosing farmers' costly investment in fencing was at the constant mercy of a fickle nature and feckless neighbours, and they determined to limit the threat of both through legislation. Their main complaint was that there was no legal mechanism compelling adjoining owners to share the cost of a dividing fence, with the result that many farmers had their land fenced for free by their neighbours. Although argued on the basis of equity, forcing neighbours to share the cost of fencing also gave them a mutual interest in its maintenance and protection.

Legislation to this effect was tabled in parliament in 1872, but revealed the fencing lobby to be an isolated minority.<sup>22</sup> Supporters cited a Fencing Act as the cornerstone of pastoral prosperity in Australia and promised Cape stock farmers similarly improved carrying capacities, land values, livestock and wool yields with less labour and theft. The majority, however, maintained the cost of fencing would exceed the value of the land throughout most of the colony and ruin rather than rehabilitate already heavily indebted small farmers.<sup>23</sup>

In the face of fierce opposition, the fencing lobby amended the bill to make it more palatable to the 'small man'. The legislation was made permissive, subject to a majority vote of the divisional council, the liability of tenants was limited and repayment was allowed over fifteen years at a fixed rate of interest – but all to no avail.<sup>24</sup> At least two members of parliament were censured by their constituents for supporting the measure, the original promoter being gagged and another forced to resign, and many others, fearing the ugly mood of their voters, chose expediency over principle and kept their silence.<sup>25</sup> The revised bill thus failed to pass in consecutive years, 1874–5, and was shelved until 1880 when progressives re-tabled it with a proposal for a state fencing-loan scheme similar to that provided by the new Irrigation Act.<sup>26</sup> The opposition to fencing had waned in the interim, but still the Fencing Act was only finally promulgated in 1883, more than a decade after it was first introduced.<sup>27</sup>

The effect of the Act is hard to gauge in the absence of any statistics of

<sup>22</sup> CGHGG, 4449, 31 May 1872, 'Bill to Encourage the Erection of Dividing Fences in this Colony'.

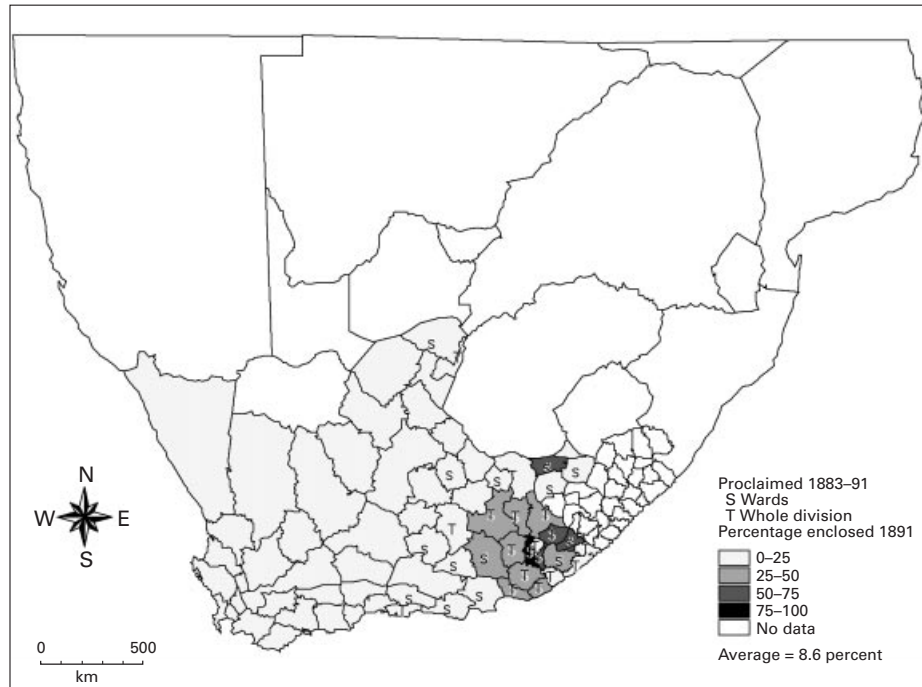
<sup>23</sup> See evidence contained in Cape of Good Hope, *Report of the Select Committee on the Fences Bill, 1872* [A18–72].

<sup>24</sup> See CGHGG, 4662, 29 May 1874, 'Bill to Encourage the Erection of Dividing Fences in this Colony'; Cape of Good Hope, *Report of the Select Committee on the Fences Bill, 1874* [A14–74] and CGHGG, 4747, 19 Mar. 1875, 'Bill to Encourage the Erection of Dividing Fences in this Colony'.

<sup>25</sup> Cape of Good Hope, *Report of the Select Committee on Dividing Fences, 1880* [A15–80], Evidence of J. S. Distin, 1–2 and Evidence of T. Moodie, 10.

<sup>26</sup> See evidence in *Report of the Select Committee on Dividing Fences, 1880*.

<sup>27</sup> Cape of Good Hope, 'Fencing Act' (No. 30, 1883).



Map 1. Cape Colony. Extent of land enclosed with wire fencing by division, 1891.

fencing prior to 1883, but the area in which the Act was immediately proclaimed suggests a period of intensified enclosure of private farms in the Eastern Cape during the 1880s (see Map 1).<sup>28</sup>

Progressive farmers in proclaimed divisions could now compel recalcitrant neighbours to bear half the cost of enclosure and the process, once begun, acquired a momentum of its own. As an earlier opponent of compulsory fencing reasoned:

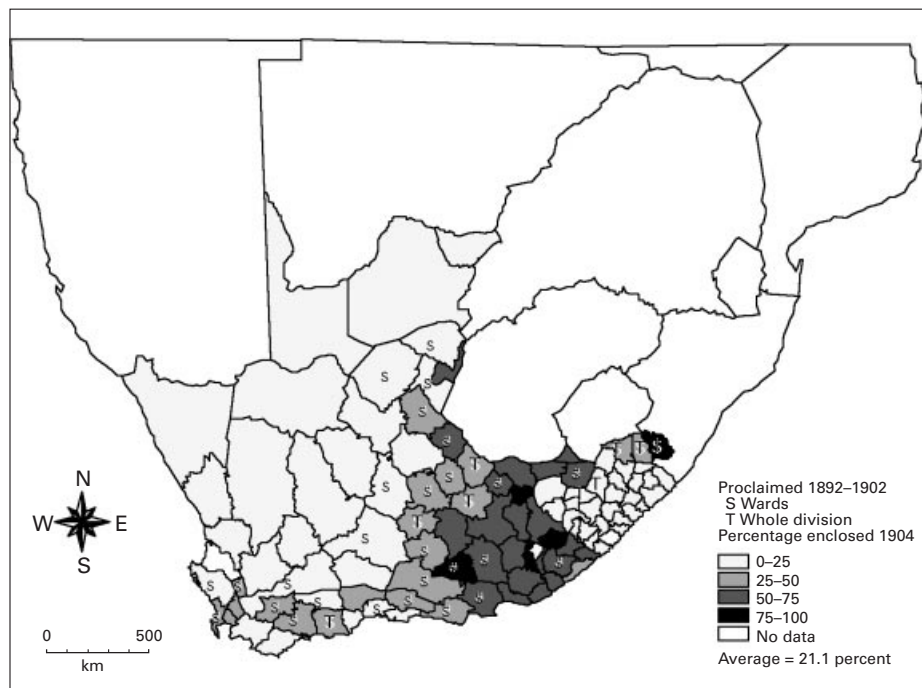
Besides, assuming that I were to enclose my farm, and were to require my neighbour to assist me, he would only have the advantage of the enclosure so far as his land might abut upon my farm, and the rest of his farm would still lie open; so that to derive any real advantage, he would be obliged to enclose the whole of his lands, and compel his next neighbour to enclose his, and so on.<sup>29</sup>

Enclosers preferred to believe that opponents were won over by demonstration of fencing's benefits and held that it 'civilises the country, as there can be nothing worth calling a farm until the country is fenced and the

<sup>28</sup> The three maps represent the area fenced with wire by division, as recorded in the 1891, 1904 and 1911 censuses, converted to percentages using the total land area provided by the 1911 census adjusted to reflect shifting divisional boundaries. The data, if anything, underestimates the total area enclosed by excluding land fenced with other materials (stone, mud, clay, etc), which accounted for up to 10 percent of the area enclosed in some divisions, even as late as 1911. The implementation of Part I of the Fencing Act by division or ward is taken from the *CGHGG* for the period 1883–1911.

<sup>29</sup> *Report of the Select Committee on the Fences Bill, 1872*; Evidence of Mr Ziervogel, 10.





Map 2. Cape Colony. Extent of land enclosed with wire fencing by division, 1904.

farmer has his stock thoroughly under control'.<sup>30</sup> Civilization's march through the Eastern Cape, however, soon encountered new impediments to progress, as enclosure stalled at the limits of proclaimed divisions and 'small men's' credit worthiness.

While the Fencing Act could be implemented at ward level, farmers on the borders of proclaimed wards were unable to compel their neighbours in adjoining unproclaimed field cornetries to share the cost of enclosure. Conversely, those in proclaimed wards might wait up to fifteen years for their money and often found the debts impossible to collect, as the MLA for Aliwal North explained:

At present the only security a man who built his fences and paid for them had was the personal security of his neighbour for his half. If the neighbour failed or went to the Transvaal, the man who built the fences had absolutely no redress, and lost his money. This ... had done a great deal towards checking the building of fences in different parts of the country.<sup>31</sup>

By the late 1880s, the fencing lobby felt confident enough to roll back the concessions made to the 'small man' to secure the passage of Fencing Act in 1883. The power of divisional councils to insulate farmers was eroded by including those in unproclaimed wards under the Act when their land bordered on wards in which the legislation was in force. The period allowed for repayment by instalment was also reduced from fifteen to between five and ten years, and creditors were empowered to secure fencing debts by

<sup>30</sup> *Report of the Select Committee on Fencing or Enclosing of Lands, 1889*; Evidence of A. Douglass, 22–3. <sup>31</sup> Cape of Good Hope, *House of Assembly Debates*, 1889, 113.

passing a mortgage on their neighbour's land.<sup>32</sup> In the words of one opponent, 'this ... would oppress the poor, for a rich neighbour could always force the poor man to fence, and to pass a bond on his farm'.<sup>33</sup>

With these legislative concessions and the scrapping of import duty on wire in 1890 enclosure intensified in the Eastern Cape and expanded to the south- and north-west over the following decade (see Map 2). Fencing continued to encounter sporadic resistance from small farmers, like those of the Boschberg ward in Somerset East division who protested in 1894:

In this Ward many farmers have of their own accord fenced their properties without oppressing widows, orphans and the poor [*zonder Weduwin, Wezen en Armen te verdrukken*], and they are still warmly opposed to compulsion [*dwang Wet*].<sup>34</sup>

If farmers weighed costs against the anticipated benefits of enclosure, so too did settler politicians, albeit reckoned in the more unstable currency of popular opinion.

'Times are bad, and the farmer was, at the present time, the slave of the capitalist', the MLA for Malmesbury told parliament in 1895, alleging that high interest rates were ruining farmers with mortgages and discouraging others from borrowing, to the detriment of enclosure. His solution, a state fencing-loan scheme at a low rate of interest, fell foul of the heavy losses suffered on earlier state irrigation loans and settler farmer's already huge debt burden. Estimates of the latter suggested that as many as three-quarters of all farms were mortgaged for a total of between one and two million pounds. The majority of farmers thus lacked the collateral to secure new loans, and any attempt by the state to claim a first mortgage on their land, it was feared, would merely induce private creditors to foreclose.

If drought and agricultural depression stalled enclosure in the mid-1890s, the onset of the rinderpest epizootic in 1896 lent it a new urgency. The colonial state rushed to fence the colony's borders and establish divisional rinderpest committees, which appointed armed guards to patrol the wire and shoot all stock crossing without a veterinary clearance certificate.<sup>35</sup> The already extensive enclosure of large tracts of the Cape Colony played a vital role in blunting the epizootic's impact on settler herds.

In 1900–02, fencing was again deployed to defend the Colony's borders, but this time by the British military to prevent the entry of Boer guerrillas.<sup>36</sup> The war also brought a sudden, violent hiatus to the enclosure movement as combatants and civilians on both sides attacked fences to create freedom of manoeuvre and settle old scores. Some of the damage was repaired with compensation claims, but much was still discernible in the census returns, particularly from Eastern border divisions, in 1904.

A prolonged post-war depression also placed severe financial constraints

<sup>32</sup> Cape of Good Hope, 'Fencing Law Amendment Act' (No. 15, 1891).

<sup>33</sup> *House of Assembly Debates*, 1891, 185.

<sup>34</sup> Cape Archives (CA), LND 1/497 L7686 (2), Petition of Land Owners, Tenants and Registered Voters of Ward 6 Boschberg, Somerset East opposing implementation of Fencing Act n.d. [c.7/1894].

<sup>35</sup> See C. van Onselen, 'Reaction to rinderpest in southern Africa 1896–97', *Journal of African History*, 13 (1972), 473–88 and P. Phoofolo, 'Epidemics and revolutions', *Past and Present*, 138 (1993), 112–43 for the social history of the rinderpest epizootic.

<sup>36</sup> See, for example, T. Pakenham, *The Boer War* (London, 1979), 536–7.

on the resumption of enclosure and prompted farmers to turn again to the state for financial assistance. The importation of fencing machines after the war significantly reduced the cost of vermin-proof fencing and revived the thorny issue of who should pay for the new anti-predator fences. The Fencing Act failed to define a fence so it was left to divisional councils to decide what constituted a 'sufficient fence' in their areas.<sup>37</sup> Many farmers thus refused the additional cost of vermin-proofing existing or new fences in the knowledge that arbitrators were restricted to awarding only 'the kind of fence, if any, usually constructed in the place'.<sup>38</sup>

The fencing lobby, which now rejected the ordinary wire fence as 'out-of-date', complained of 'the injustice farmers suffered who were erecting jackal fences, as they had to bear the whole expense, and some men were getting their farms fenced in without cost'.<sup>39</sup> They thus demanded that the Fencing Act be amended to specifically include vermin-proof fencing and to convert the bounty vote into either fencing loans or subsidies to facilitate its construction throughout the colony. This was the necessary 'thin edge of the wedge' that would enable them to 'prove its advantage to the people' through practical demonstration.<sup>40</sup>

The legislation was duly amended in 1905, despite strong opposition from those who once again claimed it 'would only mean oppression of the poor and struggling farmer', already battered by war and renewed drought.<sup>41</sup> Many of the latter were facing ruin by 1908 when the state raised a £25,000 loan to assist with the erection of vermin-proof boundary fencing. Few benefited from this measure either, as rather than poor relief, the money was disbursed to fencing co-operatives only upon completion and certification of construction in accordance with government specifications.<sup>42</sup>

The post-war decade also witnessed the rapid spread of enclosure to the south and south-west, into the environmental and economic transition zone between summer and winter rainfall and pastoralism and cultivation (see Map 3). Here, as late as 1897, an incredulous Eastern Cape politician could report that 'he had ridden hours and hours through the Western Province, and had never seen a fence anywhere'.<sup>43</sup> In the divisions along this internal frontier, cultivators championed fencing, especially where water made subdivision and intensive agriculture possible, often against the stubborn resistance of stock keepers. Implementation required public notice of intent and a majority vote of the divisional council determined by landowner opinion gauged through petitions and public meetings. In these forums farmers routinely recanted, switching from pro to anti and back again, and charges of fraud were commonplace. A committee appointed by the

<sup>37</sup> See, for example, Cape of Good Hope, 'Stock and Produce Thefts Repression Act' (No. 33, 1891), Clause 1; and Cape of Good Hope, "Pounds and Trespasses Act" (No. 15, 1892), Clause 3.

<sup>38</sup> 'Fencing Act' (Act 30, 1883), Part I Clause 7.

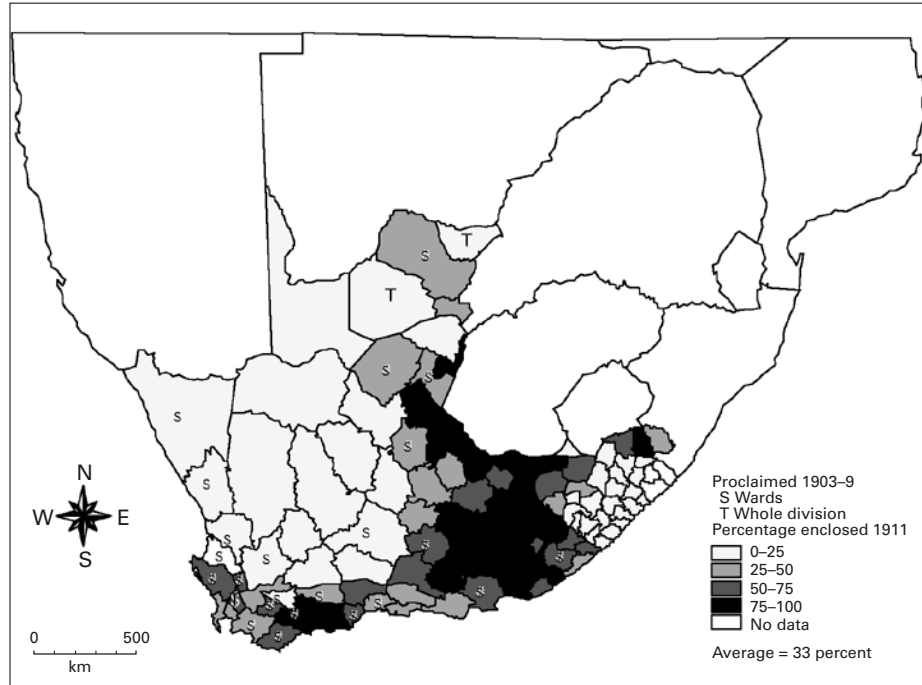
<sup>39</sup> 'A discussion at Bedford', *Agricultural Journal of the Cape of Good Hope*, 25 (1904), 562.

<sup>40</sup> Cape of Good Hope, *Report of the Select Committee on the Destruction of Vermin, 1904* [A2-1904], Evidence of W. Rubidge, 15.

<sup>41</sup> Cape of Good Hope, 'Fencing Law Amendment Act 1905' (No. 42, 1905).

<sup>42</sup> Cape of Good Hope, 'Public Loans Act' (No. 27, 1908); Cape of Good Hope, 'Fencing Loans Act' (No. 37, 1909) and *CGHGG*, 9260, 8 Feb. 1910, Proclamation No. 44.

<sup>43</sup> *House of Assembly Debates*, 1897, 160.



Map 3. Cape Colony. Extent of land enclosed with wire fencing by division, 1911.

Ladismith divisional council in 1900 to investigate memorials opposing proclamation in one of its wards reported that more than half the signatures were forged, those of non-residents or 'represent persons who may at some future date become owners by succession'.<sup>44</sup> The civil commissioner mused that the petitioners 'do not appear to be alive to their own Interests' and, although a majority, could be disregarded 'in view of the facility with which signatures can usually be got to any petition'.<sup>45</sup> Divisional council members were themselves also acutely susceptible to persuasion by influential constituents, and frequently voted against both proclamation and their better judgement.

Under these circumstances officials on the ground attempted to steel the timid resolve of councillors or pushed for proclamation in defiance of the popular will. 'The petitions in favour ... are signed by the wealthier but fewer in number and those against it by the poorer but greater in number', noted the civil commissioner of Ladismith by way of explanation for the quandry he and his colleagues found themselves in.<sup>46</sup> The Piquetberg civil commissioner, in arguing against simple majorities in such matters, noted:

<sup>44</sup> CA, LND 1/758 L12660, Ladismith Divisional Council Committee report on memorials from Ward 4 Brand Rivier objecting to implementation of Fencing Act, 28 Feb. 1900.

<sup>45</sup> CA, LND 1/758 L12660, Civil Commissioner Ladismith to the Under Secretary for Agriculture, 18 June 1900 and 25 July 1900.

<sup>46</sup> CA, AGR 553 20, Civil Commissioner Ladismith to the Director of Agriculture 24 Oct. 1906.

It is much more easy to collect fifty noisy, empty, heads whose owners occupy a morgen or two of land each to vote against a measure than to collect an equal number of persons who are really concerned in the question by reason of owning thousands of morgen.<sup>47</sup>

In cases of 'heads or morgen' the state thus sided with 'morgen' to ensure that 'the more progressive' were not 'retarded by the poorer classes', and the enclosure movement's progress through the south-west was not unduly delayed.<sup>48</sup>

In 1906, the *Agricultural Journal's* itinerant correspondent F. D. MacDermott reported in glowing terms on the 'general excellence of the fencing' in the Bedford division in the Eastern Cape Midlands:

In most parts it is good and in many admirable. In fact it is doubtful if any other district in the Colony is better or more systematically fenced. Take the properties of the Kings... Although of wide extent, they are splendidly paddocked off, while miles and miles of jackal-proof netting have been erected. The gates, too, are also a feature of the district. It has often been said that a farmer may be judged by his gates – in that case the average Bedford farmer may be given a high character. Even in the out-of-the-way spots I visited in the Mancazana, woven wire fences were common, and substantial iron gates erected wherever necessary.<sup>49</sup>

The only dark cloud on this otherwise clear horizon of progress, MacDermott recorded, was a lack of capital, which had prevented the even more extensive enclosure of the division. The lack of capital was arguably also the key determinant of private enclosure throughout the Cape Colony, for, despite the windfalls from successive ostrich feather booms, the pastoral economy laboured under steadily declining wool prices after 1875.<sup>50</sup> Under these circumstances, the Fencing Act provided progressive farmers with a legal mechanism to displace half the cost of enclosure onto their neighbours, the vast majority of whom were unwilling, because unable, to shoulder the burden unforced. Whatever the ideological justifications for the compulsory sharing of costs, the Act also suggests the extent to which the progressives' reach exceeded their grasp for want of capital. Conversely, opposition to the Act was always pleaded on behalf of the 'small man' or those who lacked the capital to comply with the compulsion of their neighbours and faced impoverishment under the Act. If a lack of capital was a feature common to both progressives and 'small men', it was also a major constraint on the biggest single landholder in the colony – the colonial state. The capital poverty of the former, however, ensured that the latter would come under mounting pressure to pay its share of the cost of enclosing the interface between private and public land in the countryside.

<sup>47</sup> CA, AGR 550 3, Civil Commissioner Piquetberg to the Director of Agriculture 9 Aug. 1905.

<sup>48</sup> CA, AGR 553 20, Civil Commissioner Ladismith to the Director of Agriculture 24 Oct. 1906.

<sup>49</sup> F. D. MacDermott, 'Rural Cape Colony No. 21: the District of Bedford', *Agricultural Journal of the Cape of Good Hope*, 29 (1906), 470.

<sup>50</sup> R. Wallace, *Farming Industries*, 336 for the claim that ostrich farming encouraged and financed the enclosure of the colony.

## THE PUBLIC ENCLOSURE MOVEMENT, 1883–1910

The 1883 Fencing Act explicitly excluded all public land from the provisions of the act and the state from all liability. By the late 1880s, however, farmers abutting public lands held that ‘the Government is the stumbling block to the fencing-in of the country’ and demanded that the state pay its share of the cost of enclosure to relieve them of the threat of trespass, stock theft and disease emanating, in particular, from native locations and reserves.<sup>51</sup>

Thus, the settlers at Mancazana in the Stockenstrom division complained in 1888 that trespassing stock from the abutting Gaza location in Victoria East created ‘constant friction’ and ‘much annoyance and even danger’ as ‘the Fingoes often resisted the seizure of their cattle, and took them away by force, large numbers often turning out, and overpowering one or two Erfholders’.<sup>52</sup> When the erfholders erected a wire fence along the commonage boundary with the location, their Mfengu neighbours disputed the line and

a regular system of destruction of the fence was made, and continued, by which the wire was cut, or twisted off, apparently with sticks, and some of it carried away. In time the line was laid quite open, and the Gaza cattle constantly trespassed as before ... and when discovered either fled with their cattle, or took them, when seized, by force.

Repairs proved pointless and the demolition was completed by 1889 by which time, ‘about one third of the poles were cut down or rooted out and carried away’. The fences of two other farms bordering the Gaza location were similarly attacked. The embattled erfholders thus petitioned that ‘the Fingoes, who have occupied that part for more than 30 years and have title to their erven ... be compelled to contribute to a permanent and durable wire fence in the line indicated’ as the Fencing Act had been proclaimed in both divisions.<sup>53</sup>

The Act, however, specifically excluded public land, as B. F. Duminy discovered when he proposed fencing his boundary with the Buffelsdoorn location in Glen Grey division. Duminy claimed the suggestion came from location residents tired of having their cattle impounded, but the headman Dolf reported: ‘I called all the people together and they said they never promised to give any thing towards a wire fence, neither would they give any thing as it was a Government farm they lived on’.<sup>54</sup> Few farmers were willing to fence boundaries with crown land when they could claim no compensation for construction or maintenance costs from their African neighbours. The latter, meanwhile, steadfastly refused all such demands or entreaties on the ground that they were merely tenants not owners of the land whose proprietor was the state.

The MLA for Barkly East, Joseph Orpen, speaking of his own farm, Snowdon, abutting the Herschel native reserve, claimed: ‘It is this un-

<sup>51</sup> ‘Fencing Act’, Clause II (No. 30, 1883); *Report of the Select Committee on Fencing or Enclosing Lands, 1889* and *House of Assembly Debates, 1889*, 430.

<sup>52</sup> CA, LND 1/305 L2295, Committee of the Africander Bond and Farmers Protection Association Stockenstrom to the Civil Commissioner Stockenstrom, 24 Apr. 1888.

<sup>53</sup> *Ibid.*

<sup>54</sup> CA, LND 1/351, Resident Magistrate Lady Frere to the Assistant Commissioner of Crown Lands and Public Works, 21 Jan. 1891.

willingness to be dealt with unfairly which has prevented even the partial enclosing of farms upon the border'.<sup>55</sup> Orpen argued:

[I]f Government held a Government Native Location to be simply unalienated waste Crown Land though beneficially occupied under its authority still since it used that land by native farmers it should be held to be in the position of any other farmer and pay its share of the joint fence. If Government held that the natives held concurrent rights – then Government and such natives should divide at least a half share of the fencing and if the land was held to be native commonage – such natives should pay like a farmer.<sup>56</sup>

The state's share could be recouped through an increase in hut tax 'willingly borne as the fencing would greatly benefit the honest natives by protection from theft and trespass and enable them and farmers to live on good terms – which open boundaries endanger'. Furthermore, 'many other fences would then be made and such a cobweb of these spread as would make theft of any large numbers almost impossible' relieving the state of spending on police and the farming industry of 'the heaviest taxation it pays – that to robbers'.<sup>57</sup> 'It appears to me', declared Orpen, 'to be a matter of simple justice between the Government which holds the title on the one side and the farmer who holds it on the other'.<sup>58</sup>

The colonial state, however, having already reluctantly agreed to finance the enclosure of railway lines and the Pondoland border in defence of settler stock, was determined to protect the treasury from what it regarded as further unreasonable demands. It thus refused to bring all crown land under the amended Fencing Act of 1891, arguing that much of it was 'comparatively useless' and the costs of enclosure thus unrecoverable through future sales.<sup>59</sup> Only where costs could be recovered through rates or hut taxes, as in the case of municipal commonages, divisional council outspans and native locations, did it agree to accept liability for the enclosure public land.<sup>60</sup>

The enclosure of commonages revealed and heightened tensions between towns and the surrounding countryside and destroyed the livelihoods of those poor blacks and whites who eked out a subsistence at this interface. Thus the decision of the Somerset East town council to fence a section of its commonage to prevent pollution of the municipal water supply in 1896 reportedly deprived 'the majority of the poorer class of Ratepayers' of the best grazing and 'will mean almost ruination to these people'.<sup>61</sup>

The threat of rinderpest also prompted farmers to insulate themselves from the main source of potential infection, the public outspans and roads. S. R. Later's farm at MacKays Nek, Glen Grey division was subject to a public outspan servitude and his agent complained that, 'so much live stock has died on the farm from disease [sic], property of people who have remained upon the outspan, with their flocks for days, that Mr Larter cannot

<sup>55</sup> CA, LND 1/351 L4603, J. M. Orpen to the Commissioner of Crown Lands, 10 Sept. 1890. <sup>56</sup> *Ibid.* <sup>57</sup> *Ibid.*

<sup>58</sup> CA, LND 1/351 L4603, J. M. Orpen to the Commissioner of Crown Lands, 11 Nov. 1890.

<sup>59</sup> *Report of the Select Committee on Fencing or Enclosing Lands, 1889*, Evidence of Surveyor-General A. de Smidt, 1–6.

<sup>60</sup> Cape of Good Hope, 'Fencing Law Amendment Act' (No. 15, 1891).

<sup>61</sup> CA, LND 1/497 L7686 (1), John Scallon to the Colonial Secretary, 11 June 1896 and Copy of Petition sent to Town Council Somerset East, 20 May 1896.

keep any stock there, hence his desire to fence'.<sup>62</sup> Similarly, the proprietor of Brookside in Mount Fletcher district wanted the road over his land fenced as 'There is such a lot of traffic on this road its impossible to run stock unless you are fenced off from all diseases'.<sup>63</sup>

Where the Fencing Act was in force, divisional councils were required to share the cost of fencing outspans, but roads had long been a stumbling block to enclosure and source of repeated conflicts over the location, dimensions, closure and steady proliferation of gates. These also failed to protect enclosing farmers against travelling stock straying off the path and mingling with their own animals while crossing their land. The fencing lobby's preferred solution was for divisional councils in proclaimed areas to share the cost of fencing main roads with the landowners on either side, thereby simultaneously removing the gates, which hindered traffic flow, and the risk of infections borne by that traffic spreading to farms along the roads.<sup>64</sup> The depressed state of the agrarian economy, however, made politicians churlish of adding further to the fencing burden of their constituents.

Only after the South African war did the colonial state belatedly accept liability for fencing private farms abutting all crown land, but, to farmers chagrin, proved a parsimonious benefactor, closely inspecting fences and disputing or delaying settlement of claims. The cash-strapped rural local authorities were even less able to bear their share of the fencing burden, as townfolk clamoured to enclose at municipal expense, forcing the colonial government to limit their liability to lands lying outside their borders.<sup>65</sup> The crown land boundaries that farmers were most anxious to fence were those shared with native locations and here enclosure proceeded apace after 1902, particularly in the Eastern and Northern Cape (see Table 1).

Although required to give notice of intent to fence, farmers, mindful of the indeterminate nature of location boundaries and anxious to avoid the costly delay of surveying, seldom did so, preferring to fence their chosen line and present a demand for payment. William Tarr's failure to do so cost him dear. His father and a partner leased the Grantham farm in the Peddie division in 1871, and Tarr senior bought it outright in 1880. When Tarr *filis* sought to fence the farm's boundary with the adjoining Pato's Kop location in 1900, however, the location inhabitants disputed the line and paid for a survey which awarded the farm's 150 morgen of arable land to them.

Tarr, forced to hire land elsewhere, demanded redress as 'a son of the 1820 settlers' who had 'served his country thru all the Kafir Wars', but the authorities remained unmoved, pointing out that he was responsible for having the boundaries 'properly traced', without which 'the erection of beacons becomes worse than useless'.<sup>66</sup> The surveyor general held that 'the farm Grantham was given in a liberal degree the benefit of the doubt' and

<sup>62</sup> CA, LND 1/531 L8715, J. J. Kelly to the Minister for Agriculture, 10 May 1895.

<sup>63</sup> CA, LND 1/544 L9095, R. T. Clarkson to the Department of Agriculture, 31 Dec. 1895.

<sup>64</sup> See Cape of Good Hope, 'Trek Path Act' (No. 37, 1896) and *CGHGG*, 8074, 8 November 1898, 'Bill to Amend the Law relating to Dividing Fences'.

<sup>65</sup> Cape of Good Hope, 'Fencing Laws (Liability of Local Authorities) Amendment Act' (No. 26, 1909).

<sup>66</sup> CA, LND 1/805 L14062, F. W. Bennett to D. W. Drew, 1 Apr. 1901 and A. H. Cornish Bowden to the Under Secretary for Agriculture, 14 Aug. 1903.



Table 1. *Enclosures of native locations by division 1891–1914.\**

1891–1902		1903–14	
Griqualand East	1	Aliwal North	1
Queenstown	1	Elliot	1
Xalanga	1	Gordonia	1
Humansdorp	2	Tsolo	1
Matatiele	2	East London	2
Glen Grey	4	Wodehouse	2
Peddie	4	Hay	3
Umzimkulu	7	Herbert	3
		Humansdorp	3
		Kuruman	3
		Xalanga	3
		Mafeking	4
		Mount Currie	4
		Queenstown	7
		Komgha	8
		Barkly West	11
		Herschel	11
		Victoria East	12
		Matatiele	15
		Umzimkulu	15
		Vryburg	16
		Peddie	18
		Taung	18
		King Williams Town	24
		Glen Grey	28
<i>Total</i>	22	<i>Total</i>	214

\* Compiled from *CGHGG*, 1892–1910 and *Union of South Africa Government Gazette*, 1910–14. The numbers reflect the number of locations/reserves enclosed in each division.

that ‘a reversion of the decision of the Government ... would amount to a disregard of the evidence of a surveyor’s diagram ... and would place a premium on the removal of beacons of farms adjoining Crown Lands’.<sup>67</sup>

Despite such cases, the colonial state, as self-appointed guardian of African interests, seldom objected to farmers failing to provide notice of intent, preferring to settle the claim after inspection and gazette a date by which the sum advanced had to be repaid by the location inhabitants. The practice was a source of bitter complaint by chiefs and headmen who observed:

The farmers are fencing their farms to keep their property from wandering about because they have got *titles* for their own farms. To day the Government

<sup>67</sup> CA, LND 1/805 L14062, A. H. Cornish Bowden to the Under Secretary for Agriculture, 14 Aug. 1903 and A. H. Cornish Bowden to the Acting Under Secretary for Agriculture, 27 Aug. 1903.

forces us to pay the expenses of fencing whereas we have no right on this ground as farmers. Every body does what he likes to do on this ground because it is said we have no power to prevent him as we have no rights on this ground to do so. In fact we have no right as we no have titles on this ground. According to the above mentioned reasons people do not understand clearly why they should pay the cost of fencing.<sup>68</sup>

They also objected to the colonial state accepting liability for fences erected without consultation. The Herschel headman, Hendrik Nkopane, spoke for all when he protested in 1904: 'If the onus of paying the half the cost of old completed fences bounded by Government ground in our location is thrown on us, the occupation rights we now enjoy with our people, will become untenable'.<sup>69</sup> The fence in question had been erected in 1901 by a neighbouring farmer, A. R. Lilford, who cited the urgency of 'stock lifting and the ravages of the Kafir dogs amongst his sheep' as reasons for his failure to give notice.<sup>70</sup> Nkopane countered that Lilford had used material from an old rinderpest fence 'almost given away' by government, but instead of being provided with scrap fencing and allowed to erect their share themselves, his people were saddled with debt. Despite his protests, the location residents were given until the end of December 1905 to pay back their £50.10s.7d share in the fence at an estimated 3s–3s.5d per hut.<sup>71</sup> In October 1905, they appealed for an extension due to drought, granted until April 1906, when the inspector of native locations reported he was unable to collect the money as headman Nkopane 'had held meetings in his location but had been unable to prevail upon anyone to pay anything towards the fence, reaping has not yet begun as crops are not very promising'. The offer by Walter Orsmond MLA to either pay the debt or persuade the Cape Mounted Police to take it over won location residents another reprieve, but when the police rejected his proposal they were duly prosecuted for the debt.

They were not alone. For the majority of Africans, enclosure, following hard on the heels of drought, rinderpest and war, hastened the transition from peasant farmers to labour migrants by confiscating land, grazing, water, game and wood, and adding to the household tax burden. Arrears mounted despite frequent extensions of the repayment deadlines, but the debts proved difficult to collect due to the chaotic state of native administration and the winnowing of defaulters by death, destitution and migration. The colonial state persisted, however, holding locations collectively liable for the out-

<sup>68</sup> CA, NA 610(1) B1729, J. D. Njokweni to the Inspector of Native Locations Peddie, 17 Feb. 1900.

<sup>69</sup> CA, NA 563 A1051, Hendrick Nkopane and Headmen of Nkopane's Location to the Resident Magistrate Herschel, 8 Dec. 1904.

<sup>70</sup> CA, NA 563 A1051, R. G. Attwell to Resident Magistrate Herschel, 4 Oct. 1904.

<sup>71</sup> *CGHGG*, 1905, Proclamation No. 241 and CA, NA 563 A1051, Native Affairs Office to Colonel Crewe, 7 Sept. 1905; and Inspector of Native Locations, Herschel to the Civil Commissioner and Resident Magistrate Herchel, 19 Oct. 1905.

standing amounts and relentlessly prosecuting offenders through local law agents.<sup>72</sup>

Officials could not concede private tenure to Africans without undermining the material base of traditional rule and, despite a belief in the ‘civilizing’ effect of fencing, remained wary of any Africans wishing to enclose their land. Thus the request of an Umzimkulu headman to fence off fields from pastures in his location required the consent of the prime minister and a written ‘understanding that the fact that the land is fenced shall not confer ... any rights or privileges in respect of such land not now enjoyed by the people occupying and cultivating it’, a copy of which was lodged with the surveyor general’s office.<sup>73</sup>

#### DEFENDING ENCLOSURE

Any claim to ownership of property requires social recognition and defence against violation to have any hope of enduring.

Even a symbolic definition of space ... depends on the possibility of force being used in the defence of spatial bounds, if only as a last resort. The role of force in the history of the prevention of movement – force in its most literal sense, of physical pressure applied to bodies – means that such a history must be one of violence and the infliction of pain.<sup>74</sup>

Given the long and bloody history of dispossession underlying private ownership in the Cape Colony, such acknowledgement and respect was conditional upon the existence of sufficient coercive sanction to compel its social recognition.

Hence the legal martyring of stock thieves and illicit diamond buyers at the nineteenth-century Cape to ‘terrorize’ the general populace into acknowledging private ownership in domestic stock and precious minerals. So too enclosures, representing a claim to the private ownership of land, grazing, water, game and wood required defence against those denied access by fencing who were otherwise disinclined to recognize or respect this new form of private property in the countryside.

Fences were protected from the outset against the negligence of neighbours. In proclaimed divisions the cost of maintenance and repair was automatically shared, unless occasioned ‘by fire, or by the falling of any tree, or by the trespass of any cattle’ due to carelessness, whereupon the culpable party was liable for the full cost of repair. To curb the threat of fire elsewhere, enclosers throughout the colony were legally entitled to clear bush

<sup>72</sup> Prosecutions for offences against the Fencing Acts were as follows:

Years	Charged		Convicted
	White	Black	
1880–9	1	4	4
1890–9	13	79	65
1900–9	30	891	814
Total	44	974	883

Compiled from data contained in the *Statistical Register*, 1880–1909.

<sup>73</sup> CA, LND 1/767 L12935, Secretary to Native Affairs to the Under Secretary for Agriculture, 24 Apr. 1900.

<sup>74</sup> R. Netz, ‘Barbed wire’, in *London Review of Books*, 22 (2000), 30.

and remove trees along fence lines and create fire breaks to protect their expensive investments in wire, wood and iron. Those neighbours who failed to follow suit and remove combustible materials from the statutory fifteen feet on their side of the wire or made 'reckless or negligent use of fire' were similarly liable for the whole cost of repair in the event of a conflagration destroying or damaging fences.<sup>75</sup>

While market related penalties enforced by civil law were deemed the appropriate means of teaching men of property how to care for fences, far harsher sanctions were held necessary to inculcate the same respect in the rural underclass. Unlike neighbours, whose identity was known, presence fixed and intentions benign, the latter were an imagined anonymous, wandering mass bereft of property and thus respect for the ownership rights of others. To these 'wandering natives', 'trekkers', squatters and poor whites, fences constituted an unwelcome impediment to both the freedom of movement and routine violations of private property through trespass or theft essential to their daily subsistence. The damage caused to fences by propertyless strangers required the corresponding criminal sanctions appropriate to such a class of offender.

To this end, the Vagrancy Act of 1879, conceived as an anti-stock theft measure, decreed:

Every person found without lawful excuse (the proof of which excuse shall lie on such person) wandering over any farm, in or loitering near any dwelling-house, shop, store, stable, out-house, garden, vineyard, kraal or other enclosed place, shall be deemed and taken to be an idle and disorderly person.

Such persons were liable upon conviction to incarceration or indenture for up to three months.<sup>76</sup> It was still possible to 'wander' over a farm in the late 1870s and encounter 'enclosed places' mainly in the form of buildings, cultivated land or kraals clustered around the old *ordomantie*.

Within a decade, however, the enclosure movement had rapidly curtailed the scope for such 'wandering' in parts of the colony by creating 'enclosed places' of whole farms. In 1891, new legislation for the repression of stock theft, in the words of the attorney general, 'put a kraal or substantial enclosure ... on the same footing as a house' by imposing a maximum twelve month's imprisonment plus a £100 fine for breaking or entry by thieves.<sup>77</sup> The latter were defined as anyone found within enclosed land off the public road and presumed guilty until proven innocent.<sup>78</sup>

Trespass by people who could not be construed as either vagrants or stock thieves, however, remained a civil offence, which landowners seldom bothered to prosecute, as the perpetrators were invariably 'men of straw' with no property who thus went unpunished.<sup>79</sup> This loophole in the legal armoury of landed property was closed in 1906, after decisions by the Eastern Districts Court threatened to undermine the effectiveness of the Vagrancy Act.

<sup>75</sup> 'Fencing Act' (No. 30, 1883), Part I, Clause 14, and Part II, Clauses 20 and 23.

<sup>76</sup> Cape of Good Hope, 'Vagrancy Act' (No. 23, 1879) Clause 4.

<sup>77</sup> *House of Assembly Debates*, 1891, p. 179.

<sup>78</sup> 'Stock and Produce Theft Repression Act' (No. 33, 1891), Clauses 4 and 5.

<sup>79</sup> *House of Assembly Debates*, 1906, 237.

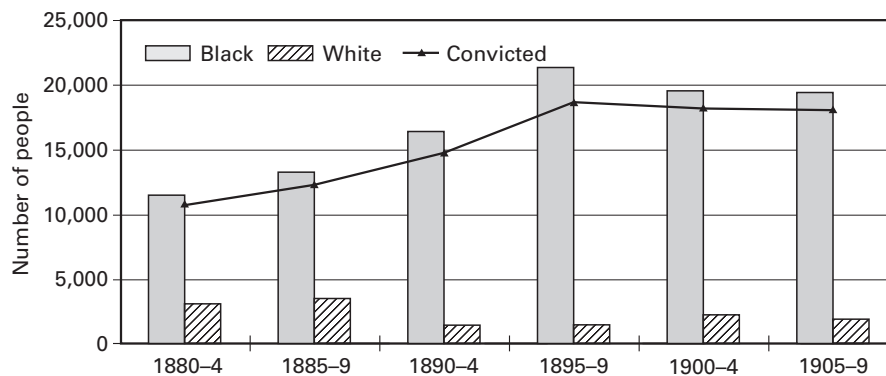


Fig. 2. Cape Colony. Prosecutions and convictions under the Vagrancy and Trespass Acts, 1880–1909. *Source:* Compiled from the *Statistical Register* 1880–1909. The figures reflect prosecutions and convictions by both resident magistrates and special justices of the peace.

Now the Courts had held that with regard to vagrancy a man must be wandering or loitering. If a person walked through a farm with the object of crossing it, he was not wandering and three or four cases had occurred ... where men who trespassed set up some object in view, and the proceedings were set aside. It seemed quite clear that unless they made it a crime to be found within an enclosed fence there were no means of dealing with the farmers grievances.<sup>80</sup>

The ensuing remedial legislation redefined a trespasser as anyone straying more than one hundred yards either side of a public road while passing through ‘any enclosed Camp, Kraal, or land’ without the owners permission. In addition, it made ‘cutting or destroying or wilfully damaging ... any wire or other fence enclosing or dividing any Camp, Kraal or land’ in the process an offence subject to a maximum £50 fine or six months imprisonment.<sup>81</sup>

The harsh pedagogy of respect for private property in land was thus taught the colonial underclass through the concomitant spread of enclosure and protection of ‘enclosed places’ by the criminal law (see Fig. 2). The figures, although undifferentiated by offence, region or town/countryside divide, provide a crude indicator of enclosure’s growing importance within colonial society during the period. Revisionist historians have traditionally viewed the Vagrancy Act as an addendum to the battery of coercive labour legislation enacted in the wake of the abolition of slavery and centred around the core Masters and Servants acts. While this was certainly a central concern of colonial legislators in attacking vagrancy, so too was the protection of enclosed property in land and livestock from trespass and theft. To treat the above statistics as merely a disguised form of labour recruitment ignores not only the omnibus concerns of contemporary politicians and officials, but also the extent to which the enclosure movement created a novel form of private property in the countryside based not on the *ordonnantie* of old, but the newly fenced boundary. Respect for the claim to exclusive access to resources in enclosed areas was neither automatic nor consensual, but had to be enforced on the recalcitrant elements of the rural underclass by landowners

<sup>80</sup> *Ibid.* 520.

<sup>81</sup> Cape of Good Hope, ‘Trespassers Act’ (Act 23, 1906).

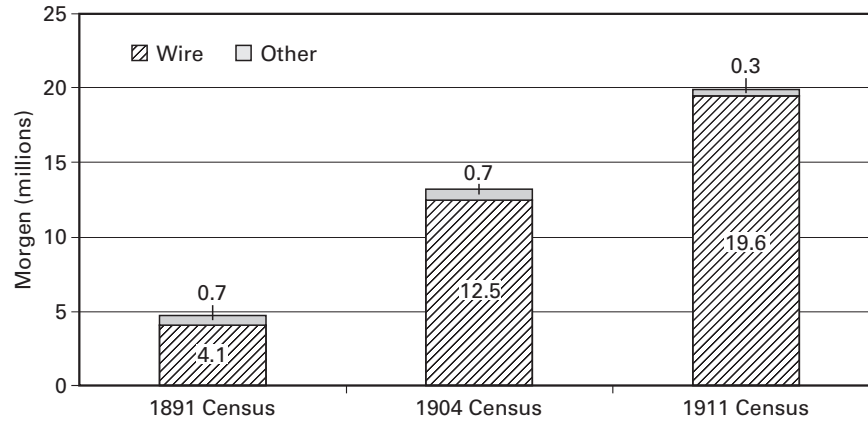


Fig. 3. Cape Colony. Extent of land enclosed by material used, 1891–1911. *Source:* Compiled from *Statistical Register, 1891*, 313; *Statistical Register, 1904*, 359–60 and Union of South Africa, *Census 1911: Annexures to General Report Part IX—Live Stock & Agriculture* [UG32h-1912], 1254–1259. No quantitative data on fencing in the colony was collected prior to the 1891 census.

and the state. That many of those thus ‘instructed’ in the law of private property ended up as indentured or convict labour in the employ of settler farmers should not obscure or trivialize the pretext for their forced march into the ranks of the gainfully employed.

#### PROJECTING POWER, CLEARING SPACE

Mapping the spread of fencing through space and time at the colony level reveals a beguiling macro-geography of settler power, with its shifting zones of concentration and dissipation flowing along recognisable environmental (relief, rainfall, etc) and economic (type of farming) contours in the landscape. The seductive organic unity of the map, however, should not blind us to the fine grain micro-geography of that power, which can only be revealed through detailed ‘biographies of enclosures’ on the scale of individual divisions, towns, farms or locations.<sup>82</sup>

That said, by the end of the colonial period territoriality or classification by area (the farm), communication by border (the fence) and enforcement of control over humans (the Vagrancy and Trespass Acts) had been generalized to a vast swathe of the Cape Colony (see Fig. 3). Crude assessments of its impact in terms of the total area enclosed (around a third of the land area) or total capital invested (more than £2,500,000 in imported materials alone) are grossly misleading. They ignore the near total enclosure of particular regions of the eastern and southern Cape and fencing’s vital importance to general pastoral betterment. Although not the *deus ex machina* it was often touted as, fencing made possible the abandonment of kraaling and the initiation of a

<sup>82</sup> This phrase is from Turner, *English Parliamentary Enclosure*, 172. See, for example, R. Bouch, ‘Eastern Cape wool farmers: production and control in Cathcart, 1920–1940’, in A. H. Jeeves and J. Crush (eds.), *White Farms, Black Labour: The State and Agrarian Change in Southern Africa, 1910–1950* (Pietermaritzburg, 1997), 94–113.

Table 2. *Wool and mohair yield per head of small stock (lbs.) 1890–1909.\**

	Yield 1890–4	Yield 1895–9	Yield 1904	Yield 1905–9	Percentage increase
Wool Sheep	5·6	7·0	7·6	7·4	+ 32
Angora Goat	3·4	4·1	5·0	5·0	+ 47

\* Compiled from the *Statistical Register*, 1880–1909. The yields were obtained by dividing the quantity of wool and mohair exported by the number of wool sheep and angora goats for each year. The absence of annual stock census figures prior to 1887 and for 1890, 1892, 1900–1903 (the South African War), as well as the dubious reliability of such figures, makes this table at best a crude indicator of a general trend.

series of environmental interventions aimed at rehabilitating the veld, improving the health of flocks and better protecting them against animal and human predators. By quarantining land and animals against trespass and the attendant dangers of degradation, disease and depredation, fencing greatly increased landowners' 'span of control' over their environment and enterprise and allowed greater manipulation of both in pursuit of profit.<sup>83</sup> The effectiveness of pastoral betterment is difficult to measure, but the one third increase in wool yield and one half in mohair over the period strongly suggests that, although uneven in application, the suite of remedial measures enabled or enhanced by enclosure did indeed raise the productivity of the commercial small stock sector (see Table 2).

Only the most obdurate idealist could insist that fencing 'failed' or failed to make a difference to the nature of production and social relations in the colonial countryside. The myopic focus of the revisionist literature on agrarian surplus extraction has blinded historians to such changes, just as a preoccupation with resistance has privileged a crude model of settler control based on unrelenting coercion. As van Onselen has so brilliantly demonstrated, however, white rural hegemony was a more subtle beast altogether, and in this, too, enclosure served an important, though less tangible, ideological function.<sup>84</sup>

Fencing simultaneously reified and obscured settlers' claim to control over the land. The wire 'cobweb', despite local reversals, inexorably and visibly enveloped the countryside and came in the process to stand increasingly in the stead of the landowner. The latter, or his surrogates, no longer needed to be a visible presence on the land to defend it against trespass once fences barred random entry and exit and channelled traffic into designated routes, which could be gated and easily supervised. The compartmentalization of the countryside into enclosures also facilitated the re-ordering and re-assigning of humans and animals within it to meet the needs of the commercial economy. Fencing enabled farms to be cleared of all 'foreign' animals and

<sup>83</sup> See Sack, *Human Territoriality*, 37.

<sup>84</sup> See C. van Onselen, *The Seed is Mine: The Life of Kas Maine, a South African Sharecropper, 1894–1985* (New York, 1996).

people and the movement of the owners' stock and employees regulated within its borders by subdividing the land into camps with internal fences. Fencing's closure of the myriad informal tracks criss-crossing the backveld made wandering travel increasingly impossible and channelled the 'foreign' traffic excluded from the farm onto the narrow ribbons of public road where it could be more effectively monitored by the police checking brands, clearance certificates and passes to interdict stolen or diseased animals and 'wandering natives'. The re-ordering and control of the landscape enabled by fencing was also integral to settler notions of 'civilizing' the landscape.<sup>85</sup>

Ultimately, the new rural spatial order created by fencing came to be seen as 'natural', as the unenclosed countryside with the old pathways and travelling practices was erased from popular memory by time, with the vigilance of farmers, police and courts. Rural social relations were correspondingly depersonalized as earlier social definitions of territory were supplanted by a universal territorial definition of society in terms of the owners and non-owners of land. In all these ways the enclosure movement laid the ideological foundations for the hegemony of private property and the market economy in the countryside.

<sup>85</sup> See P. C. Bourcier, '"In excellent order": the gentleman farmer views his fences, 1790–1860', *Agricultural History*, 58 (1984), 546–64; and K. Anderson, 'A walk on the wild side: a critical geography of domestication', *Progress in Human Geography*, 21 (1997), 463–85.