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Hendrik Albertus and his Ex-Slave Mey: A Drama in Three Acts.

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Prologue

In the early spring of 1832, Mey, a slave belonging to Hendrik Albertus van Niekerk, initiated a series of events that, in quick succession, saw him beaten by his master's son, Hendrik, Jr., whipped again by his master's own hand, and unconditionally freed by old Hendrik barely ten days later. It is a remarkable story, probably without parallel in the history of the Cape Colony, and worth telling if only for that reason. But the story also deserves the historian's attention because in determining why events passed as they did, some light can be shed on previously obscure areas of South African history.

On the morning of the second Saturday in September, Hendrik Albertus sent a number of his slaves out into his grain fields and set them to work[1]. Among the slaves was a group of eight, which included Mey. The fields were probably a part of the van Niekerk homestead, Rondebosjes Heuwel, in the deep, broad, undulating hills of Koeberg, fifteen to twenty miles north of Cape Town, between the mountains to the east and the sea[2]. After their midday meal, the group of eight dawdled and returned to their jobs a half-hour late. Hendrik Albertus noticed. He ordered Hendrik, Jr., to punish the slaves and his slave David to count the strokes. The "young Master[3]" gave five of the men, Mey included, about fifteen, perhaps as many as twenty-five, lashes with a cat o'nine tails; the others received somewhat fewer. There was nothing surprising about these beatings; such

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[1] Except where noted, this narrative draws upon the Day Book, Assistant Protector of Slaves, Cape Town, Vols. 4 and 5, Cape Archives Depot [CAD], 60 5/9.

[2] Will and Testament of Hendrik Albertus van Niekerk, Sr., CAD, MOOC 7/1/120 (1833).

[3] "Young Master" was a convention indicating that Hendrik, Jr., was Hendrik, Sr.'s, son, but nothing much about his age. As it happened, Hendrik, Jr., was forty-four at the time, with a wife and children of his own. C.C. de Villiers and C. Pama, Genealogies of Old South African Families, Vol. 2, (Cape Town: A.A. Balkema, 1966), p. 636.

punishments were a part of the farm's routine.[4] The slaves did not complain openly, and life, apparently, went on as before.

When Hendrik Albertus whipped Mey on the following Thursday, he caused major hiccup in the pattern of events in Koeberg. Van Niekerk had ordered Mey to move some large bags of chaff from one spot to another. This required the slave to carry the bags on his shoulders. It was a problem: the wounds on Mey's shoulders, caused by Saturday's punishment, had not healed. Hendrik saw Mey going about his work slowly and told him to move more quickly. Mey couldn't, and his master gave him ten lashes with the cat. This second beating was more than Mey would accept. That evening, he slipped off the farm and made his way into Cape Town. His destination, as it was for several hundred slaves in similar circumstances every year[5], was the office of a colonial official called the Protector of Slaves.

Ordinance Nineteen of 1826 had established the Protector's office and charged its incumbent with working towards the slaves' "benefit and advantage." Among other duties, he[6] was to insure that the physical discipline that the masters applied to the slaves did not exceed certain prescribed limits.[7] Mey spoke to the Protector, Major George Jackman Rogers, on Saturday, 15 May. He told Rogers about the beatings that the van Niekerks had given him and the other slaves. His complaints were specific. He admitted that he and the seven others had been punished "for not working on the land...." He said that he had taken twenty-five lashes, and he argued that the cat the Hendriks used, which was made of sheepskin, was "a much heavier Instrument of Punishment" than a "regular" cat. As for his second beating, old Hendrik had

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[4] I have no direct evidence to indicate that physical correction was an ordinary part of life on van Niekerk's farm, but, as we shall see, to suggest that it was is consistant with what is known about Rondebosjes Heuwel and other Cape farms of the day, as well as with van Niekerk's beliefs.

[5] Calculated from: Report of the Registrar and Guardian of Slaves, 24 June 1827, Public Record Office, London [PRO], CO 53/48; Reports of the Protector of Slaves, Western Division, 24 June 1831, CO 53/52; 20 January 1834, CO 53/57; 28 August 1834, CO 53/58.

[6] The law is quite specific about this: Ordinance Nineteen and the subsequent slave laws deny to the officeholder and "his Wife" the right to own slaves. See, for example, Ordinance Nineteen of 1826, Public Record Office, London [PRO], CO 50/1; Order of His Majesty the King in Council, 2 November 1831, Cape of Good Hope Government Gazette, 17 August 1832, CAD, CCP 8/1/27.

[7] Ibid.

whipped him after asking him to do something "which he was Unable to do, from the pain he felt from the unhealed Wounds...." He had "therefore... come to Complain."

The Protector began his investigation. He issued summonses to the "Messers H.A. van Niekerk Senior and Junior to attend together with Complainants Witnesses on Tuesday the 18th Instant."

Hendrik, Jr., appeared on the appointed day "with all the Witnesses except George [one of the slaves he had whipped] who he stated was Sick," but without his father. He showed Rogers "Certificates" which attested to the facts that George and Hendrik, Sr., were both too ill to travel. His father, he stressed, was nearly seventy-four and "Grieviously [sic] afflicted with Asthma." It would "endanger" the old man's life "to bring him into Town."

The Protector interviewed the slave witnesses. Carolus said that Hendrik, Jr., had whipped him and the seven others "by directions of his Old Master...for not Attending at the regular hour to their Work...." He could not say how many lashes he had received since he did not count them. He was not aware that Mey had been beaten again on the following Thursday. He told Rogers that he thought "himself to have deserved the punishment which he received... and should never have thought of Coming to Complain about it."

Groot Frans, another of the whipped slaves, "Corroborated Carolus' Statement and said that George Received the Most Severe Punishment of all of them and was now Unable to Attend...." He also said that he had not thought of complaining of the punishment.

The four other slaves who had been beaten gave much the same evidence. They agreed that not all the slaves had been lashed with equal severity. They had not complained to the Protector of the punishment because they imagined that they had "deserved" it. They had "neglected to go to their Work at the Proper time and therefore," they explained, "did not Suppose they could have been Considered to have any Grounds of Complain [sic]."

"At this Stage of the Case," Rogers told Hendrik, Jr., that the presence of both his father and George were "indispensable... unless he could produce a Certificate on Oath from some Medical Practitioner that they Could not be removed...." Hendrik, Jr., returned to Koeberg. The Protector, as was usual in such cases, ordered the slaves to be detained in the town jail.

Two days later, the Protector resumed his hearing, and Hendrik, Jr., was again in his office. This time Hendrik had George and the slave, David, with him, but his father was nowhere

to be seen. In answer to Rogers' questions, George "gave a similar Statement of the Punishment inflicted on himself and the other Seven Slaves...." He said he knew nothing of Hendrik, Sr., having beaten Mey. He "added that he should not have made any complaint himself [about his whipping] although he thought he had Received rather a Severe punishment for the fault he had Committed." David said that he had witnessed the whipping of all eight slaves. He "declared most Solemnly that he had been ordered to Count the Stripes inflicted and that No more than 15 had been given to any of them & to some of them much less."

The Police Surgeon, whom Rogers had instructed to examine the slaves, testified that five of the men, including Mey and George, "had received a most Severe Corporal Punishment which he should have Conceived to be equal to Twenty five lashes with a Cat...." The punishment of the other three had been "less Severe." After having seen the sheepskin cat the van Niekerk's used, he "was of opinion [sic] that 15 lashes given with strength by such a Weapon would Cause the marks which they all Exhibited." A final witness, the "Medical Gentleman who had Proceeded to the Country to Examine... Mr. van Niekerk Sr[.,] would not Certify that it was impossible for him to come to Cape Town...." He did believe, however, that it would "be attended with Great inconvenience."

In a brief defense, Hendrik, Jr., told the Protector that he had "only given Complainant and the Slaves 15 lashes with the instrument described... by his Father's direction for neglect of their work."

Rogers was not satisfied that his investigation was complete. He directed Hendrik to "Explain" to his father "all that had Past [sic] and inform him that his presence was necessary...." The younger van Niekerk took the message home; the slaves went back to jail.

On Saturday, 22 September, Hendrik, Jr., appeared yet again at the Protector's office, accompanied only by John Fredrick Serrurier, "a Gentleman of Cape Town" and Hendrik, Sr.'s, "agent."* Surrurier echoed the son in explaining the father's continued absence. Notwithstanding the "Medical Gentleman's" testimony, van Niekerk was elderly and "a Great Invalid from Asthma...." To appear at the Protector's hearing "would most probably Cost him his life...." He told Rogers that Hendrik, Sr., had therefore "Empowered" him to make a "Proposition."

First, Serrurier said, van Niekerk was willing to "Emancipate" Mey, who was "only 40 Years Old and a Good Working farming Man and can make himself very Useful and Earn his

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* Report of the Protector of Slaves, Western Division, Cape District, 28 May 1833, PRO, CO 53/55.

livelihood any where." Second, the old master would admit that he had broken the law, even though he had not been aware of it at the time. He would agree to pay a fine of £10 for each of the seven other infractions, and he would pay the costs of jailing the slaves and of their medical examinations. Rogers reacted calmly. He suggested that "some Renumeration [sic] was necessary to the Slaves themselves...." Serrurier offered him £40 "to be Appropriated as he may think proper for the use of those Eight persons."

Rogers spoke to the slaves about the proposal, and they "were all most ready to Acquiesce...." He agreed to accept the deal. He believed that the "Object of the Law was fully Accomplished," and congratulated himself on having avoided the risk, delay, and expense of a jury trial. Mey was immediately manumitted, and the Protector "procured him Service as a free man with a Gentleman in Cape Town." He divided the £40 in compensation equally among the slaves and placed the money in separate accounts in the Government Savings Bank. Finally, he collected the fines and expense money from Serrurier.

The Protector then summed up the case by recording that the "Seven Slaves returned most Cheerfully to their Owners place and Mei [sic] went to his new Service, and thus terminated this Complicated Case in a manner very favorable to Complainant Mei and the Slaves who had been Punished to an extent exceeding the Degree of the fault Committed."

This story is so interesting in part because it is so incomplete. The Protector's archives indicate in some detail precisely what happened, but very little about why. The questions that present themselves most forcefully involve the three principal actors in this drama--Mey, Major Rogers, and Hendrik Albertus. And they can be simply put: why did each of them do what they did? Mey's reasons for not complaining of the first whipping and for complaining vigorously of the second need to be explained. They need to be examined as well against the background of of his comrades' actions. Major Rogers investigated the case aggressively, and went beyond what the law required of him in seeking a happy outcome for the slaves. Especially in the light of the cynicism with which historians have recently viewed the motives and results of the British government's attempts to "ameliorate" the condition of the various classes of its black subjects, his advocacy of the slaves' cause demands comment.* Finally, van Niekerk agreed,

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* Susan Newton-King, "The Labour Market of the Cape Colony, 1807-28," in Shula Marks and Anthony Atmore, eds., Economy and Society in Pre-industrial South Africa, (London: Longman, 1980); Mary Raynor, "Wine and Slaves," unpublished Ph.D. dissertation, Duke University, 1986. Wayne Dooling follows Raynor on this--

without much of a fight, to free an apparently valuable slave, and to pay fines and compensation amounting to more than £130. His actions, from the beginning of this story to its end, seem to contradict whatever stereotype of the slaveholder one chooses to hold--kindly paternalist, shrewd businessman, vicious oppressor.

This case, in its extreme outcome, is unique in the history of the masters and the slaves at the Cape. The story, then, might seem unlikely to repay close scrutiny if the goal of the exercise is to illuminate the generality of master and slave relations in the colony. The assumption is incorrect. In a case such as this, where the result is so much at variance with the prediction, the explanation will necessarily focus more on the specific than on the general, the individual rather than the structure.[10] This will direct attention towards those rarely explored regions of early nineteenth century Cape history--consciousness, worldview, ideology. It will emerge that the thoughts, which inspired the deeds, of all three principals are representative, respectively, of the slaves, the colonial officials, and the masters at the Cape. I will suggest here that Mey did what he did because he had a well developed sense of just and unjust punishment; Rogers, because Mey and his mates were good slaves; and Hendrik Albertus, not just because he was a paternalist, but because he was an angry and honorable man.

Act I: Mey

Without Mey, of course, there would be no story to tell. Had he not returned to his work from dinner a half-hour late, he would not have been beaten that Saturday. Had this beating not occurred, he would have walked more quickly with the bags of chaff on his shoulders, old Hendrik would not have whipped him, and Mey would have had no reason to quit the farm that Thursday evening and complain, two days later, to the Protector. What Mey had done in both of these episodes might be called acts of resistance. That is, he might have acted as members of subordinate classes have long done. He may have hoped, through resistance, "to mitigate or deny claims made [against him] by

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"Slaves, Slaveowners and Amelioration in Graaff-Reinet, 1823-1830," unpublished B.A. (Hons.) thesis, University of Cape Town, 1989.

[10] I am not denying the importance of structure, say, for instance, a material base supporting an ideological superstructure. One ought to understand these things, and I can direct those who might be interested to Mary Raynor's very fine dissertation (see, note 9). But what concerns me here is not so much the shape of the playing field, which will be evident enough, as how the points in this particular game were scored.

superordinate classes or to advance claims vis-a-vis those superordinate classes."[11] To argue confidently that Mey resisted requires more than mere assertion; it demands that we know something about the man and his circumstances.

Little can be known about the facts of his life. He was about forty when these events occured; he had been born in the Cape Colony; and he was a wagon driver by trade. Hendrik Albertus had been his master since at least 1817.[12] There is no record of his family, if he had one, of his last name,[13] or of the name and residence of the man who employed him after he had been freed. Mey can be seen more clearly if we widen our field of view.

If Mey had resisted, it was because there was a generalized dissonance between the interests of the slave and of the master. This assertion is uncontroversial. In 1813, the Fiscal[14] of the Cape Colony, D. Denyssen, explained to Governor Sir John Cradock that

> [e]xperience has enough taught us that the generality of slaves always incline to dissolute conduct, and that they take no interest whatsoever in the welfare of their Masters, which frequently obliges the latter, when they cannot confine their slaves within the pale of their duties by reason or verbal correction, to have recourse to corporal punishment.[15]

Under both the Dutch and British governments, the laws of the colony had recognized the right of the masters to discipline their slaves physically for offences that were termed "Domestic." Criminal acts did not fall under this head, but, neglect of work, wilful disobedience, disrespect and insolence, drunkenness,

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[11] James C. Scott, Weapons of the Weak: Everyday Forms of Peasant Resistance, (New Haven: Yale University Press, 1985), p. 32.

[12] Slave Register, Cape District, CAD, SO 6/26.

[13] Many [most, all?] slaves in the Cape had surnames which they used, at least, among themselves. These occasionally make their way into the Protector's reports and court cases. The convention, however, seems to have been record only one name.

[14] The chief legal officer.

[15] Denyssen to Cradock, 16 March 1813, G.M. Theal, comp., Records of the Cape Colony [RCC], Vol. 9, (Cape Town: Government of the Cape Colony, 1905), p.144.

escape, and stealing from members of the household did[16]. The law officers and the law recognized that there would necessarily be some friction in the master-slave relationship, and protected the masters' right to break through any impass by force.

Isolating resistance, however, involves more than simply identifying instances of conflict between superordinate and subordinate groups or individuals. Some of the problems can be illustrated by looking at the events of that Saturday afternoon on which Mey and the other seven slaves returned late to their work. They may have been engaged in resistance, and Hendrik Albertus may have thought that they were. He ordered his son to punish them for what Hendrik, Jr., later termed "neglect of their work."[17] If he considered it resistance, it would have been, in part, because he shared a consensus of opinion among the slaveholders at the Cape that "the right of property of the Owner in his Slave is as complete and as sacred as any right which His Majesty's subject may be deemed to possess...."[18] So the Burgher Senate put it when protesting Ordinance Nineteen in 1826. In 1832, about five months before they whipped Mey, the van Niekerks put their signatures under a similar sentiment.

In May, 1832, both Hendrik van Niekerks, along with many other Koeberg farmers, signed a letter to the editor of the Cape Town newspaper, Zuid-Afrikaan, denouncing, in very harsh language, the Order in Council of 2 November 1831, which strengthened some of the legal protections afforded the slaves. The order, they wrote, would "knock upon the head all justice and equity... [and] would violate our sacred rights of property...." Among the property rights which they believed would be compromised were the right to punish their slaves and send them to the field or to other work as they saw fit.[19] Perhaps what Hendrik's slaves had done in returning late to the field, was to attempt "to mitigate or deny" his claim to their labor. However, before "neglect of their work" can be transformed into "resistance," one more element is required. The slaves must have intended to resist.

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[16] "Report of the Commissioners of Inquiry upon the Criminal Law (1827)," RCC, Vol. 33, p. 35.

[17] Day Book, Assistant Protector of Slaves, Cape Town, Vol. 4, CAD, 60 5/9.

[18] Memorial of the Burgher Senate to Maj. Gen. Richard Bourke (in opposition to Ordinance Nineteen), 30 June 1826, RCC, Vol. 27, p. 92.

[19] Zuid-Afrikaan, 4 May 1832, (unpaginated). In Dutch and English.

Without knowing what Mey and the others were thinking, it is difficult to assert that they were resisting their master in any but the most primitive sense. As James Scott notes, one can speak of an ox "resisting" its driver to set "a tolerable pace of work." But slaves were not cattle. They were people "gifted with intentions and values and purposefulness that condition[ed] their acts." "[I]n as much as analysis seeks to understand people," in this case the slaves who went late to their work, "it cannot ignore... the meaning they give to their acts."[20] Such an analysis will admit that these slaves may not have been resisting at all--they may have been looking for a misplaced hat, they may have lost track of the time while playing a game. There is no way to know. The record shows us only their behavior, and the van Niekerks' claim that they had neglected their work. The record allows a much more complete consideration of Mey's second important act, that of leaving the farm to visit the Protector. There is little doubt that this was a conscious and sophisticated act of resistance.

This second crucial event, in terms of the narrative, was set up by a relatively minor one. Mey did not work quickly enough to suit Hendrik Albertus. Yes, he did resist his master in order to set "a tolerable pace of work." But, unlike the case of the ox, it is possible to surmise with a reasonable degree of confidence why Mey resisted. He was neither lazy nor hungover; he was in pain. Since he still suffered from the unhealed wounds of the previous beating, he wanted to establish the rhythm of his work. He paid the price for this act, and the whipping he received precipitated his flight to the Protector.

Mey's complaint was a protest against the discipline of the whip. There were two aspects of this discipline, and of Mey's resistance to it. The first was labor control. The slaves were not simply property, they were income-producing property. Hendrik Albertus beat Mey in an effort to extract more labor from him than Mey thought it was possible to give. Where the master and the slave disagreed over a matter as fundamental as the master's right to dispose of the slave's labor as he or she saw fit, the master would resolve the conflict with the whip. As one slaveholder told the Protector of Slaves for the Eastern Division,

> I could not rule [my slaves] unless... I had the power of exacting prompt obedience and repressing insolence with an occasional correction with my hand or whatever I chanced to have in it, they are children and must be treated as such or spoiled.[21]

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[20] Scott, Weapons of the Weak, pp. 37-38.

[21] Quoted in, Report of the Protector of Slaves, Eastern Division, 14 August 1833, PRO, CO 53/56.

On that Saturday and that Thursday, van Niekerk had tried to exact obedience, and Mey had resisted. Part of what he was resisting was a mode of discipline, a system of labor exploitation.

A slave, however, was more than an exploited worker, and there was more to the discipline of the whip than labor coercion. The second aspect of this discipline and the resistance to it involves the very nature of enslavement. When Mey resisted the whipping that Hendrik Albertus gave him, he acted to mitigate not only the extent of his exploitation, but the degree of his slavishness. Orlando Patterson's efforts to define and isolate the constituent elements of slavery will help clarify the issue.

After a survey of 186 slave societies, ancient and modern, Patterson concludes that among the attributes of slavery, wherever it is found, are the "violent domination" of the slaves, and their "generalized dishonor."[22] He qualifies his rule by admitting that the power of the master, because it is so extreme, "tended to become sublative," and that the slave often managed "to eke out some measure of pride and dignity in the face of the master."[23] Mey, while remaining a slave, attempted to make himself less of one by moving within the space bounded by these qualifications.

Mey struck out against his violent domination. In this, the law helped. The slave reform law that applied at the time, the Order of the King in Council of 2 November 1831, limited the degree of physical punishment that a master could apply to a slave. No male slave could be flogged or whipped or scourged "if the whole number of stripes inflicted... shall exceed fifteen," nor could the "instrument" used be "of greater severity than is usually employed in the Common Jail of [the] Colony...." (No female slave could be flogged, or otherwise bodily assaulted, at all.)[24] Mey used the law to limit the extent to which he would allow himself to be violently dominated. He was a person with certain legal rights. Though he remained a slave, he was less slavish. He was by no means his master's absolute property, to be disposed of at will. Mey managed to establish, for instance, that van Niekerk could not, with impunity, exploit his slaves to the extent of making a sick man work beyond his capacity. Though it was not the crux of his complaint, the case he brought also

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[22] Orlando Patterson, Slavery and Social Death: A Comparative Study, (Cambridge: Harvard University Press, 1982), p. 13

[23] Ibid.

[24] Order of the King in Council, 2 November 1831, Government Gazette, 17 August 1832.

resulted in Hendrik Albertus parting with £70 in fines for having punished the seven other slaves "to an extent exceeding the Degree of the fault Committed." Van Niekerk, having been chastened by this experience, may have used the whip less often and with less vigor. The slaves may have had to work that much less hard. It was a fight worth winning. This might be termed a physical victory; there was a moral one as well.

The moral victory lay in Mey's ability to compromise the generalized dishonor that Patterson identifies as a constituent element of slavery. Patterson argues that power and honor are directly linked, as are powerlessness and dishonor. The slave was dishonored "because he had no power and no independent social existence, hence no public worth."[23] Conversely, the masters possessed honor because they possessed slaves relative to whom their power was virtually unlimited. Patterson quotes Hobbes: "To obey, is to Honour; because no man obeys them, whom they think have no power to help, or hurt them. And consequently to disobey, is to Dishonour."[24] By seeking to limit his master's power, Mey asserted a power of his own. He caused the wheels of the legal system to turn, and, before they came to a halt, their turnings had cost his master a considerable amount of bother and cash. His power had indeed come through the mediation of the British state, but there it was latent; Mey made it real. To the degree that he made this power his, he found honor and lost dishonor[27].

A close look at why Mey complained when he did will inject some life into this, as yet, rather airless discussion. Though Mey told the Protector of the circumstances of his initial beating, and protested against both the severity of the cat o'nine tails and the number of strokes applied, it was not immediately after this punishment that he complained. He left

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[23] Patterson, Slavery and Social Death, pp. 10-12, 77-81.

[24] Ibid, p. 10.

[27] There is another element to the dynamic of power and honor. Since the master's honor depends heavily on the dishonor of the slave, the futher Mey moved from abject powerlessness, the less powerful and honorable van Niekerk became. Again, when Mey turned to the Protector for help, he turned away from Hendrik Albertus, and, implicitly, showed disrespect and disobedience. Hendrik Albertus was doubly dishonored, a rather insubstantial notion that, as I will argue below, he probably felt as betrayal, anger, and shame. These sentiments strongly influenced the decisions he took in dealing with the Protector.

the farm for the Protector's office on the evening of the second whipping, five days later. He may have wanted to complain about Saturday's beating, and not been able to get away from the farm. But there is no evidence of this. It may be that the second beating, though consisting of fewer lashes applied by an elderly man, was the more brutal because it was given over the unhealed wounds of the first. This is a more likely explanation. It ought, however, to be extended. The whipping that Hendrik Albertus gave him on Thursday was not only painful, it was unjust. As Mey put it, Hendrik had beaten him for not being able to work as quickly as he had been ordered to, "which he was Unable to do, from the pain he felt from the unhealed Wounds on his Shoulders, and therefore left his Masters place on Thursday Evening to come to Complain."[20] The injustice of having been punished for not doing the impossible outraged Mey, and sent him to the Protector.

This becomes all the more clear if we look to what his comrades had to say. None of the slave witnesses whom the Protector interviewed knew anything about Mey's second beating; they spoke of the first. Carolus said, as had Mey, that the slaves had been punished for reporting back late to work. He did not complain of the severity of the beating, and he admitted that he had "deserved the punishment... and should never have thought of Coming to Complain." Groot Frans echoed Carolus' testimony, and added that George had received "the Most Severe Punishment...." He also had not felt that he ought to complain. When George finally appeared at the Protector's hearing, after having spent some time recuperating, his evidence had much the same flavor. He, too, "should not have made any complaint...," even though "he thought he had Received rather a Severe punishment for the fault he had committed." Carolus, Groot Frans, and George admitted the legitimacy of the punishment they had received. It was unpleasant, even unnecessarily harsh, but not beyond the bounds of the acceptable.

The van Niekerk slaves shared with other Cape Colony slaves this sense of punishment deserved and underserved. Instances of slaves complaining about unmerited beatings are scattered throughout the reports of the Protectors. In 1831, for instance, Africa, a forty year old farm laborer, complained that he had been "most unjustly punished." The Assistant Protector in Stellenbosch, who handled the case, noted that there were signs of a recent whipping on Africa's body. The Assistant Protector heard three witnesses. All three testified as to what had provoked Africa's master. Lendor, a slave belonging to the same man, said that Africa had behaved "impertinantly." A second slave and a white witness agreed that Africa had been punished for "insolent conduct." The Assistant Protector dismissed the

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[20] My emphasis.

complaint, but Africa had managed to register his protest[29]. This slave's implicit insistance that insolence ought to be a protected form of behavior, perhaps as a way of releasing some of the tension inherent in the master-slave relationship, is echoed in other cases.[30]

There were a variety of reasons behind slaves' complaints of underserved punishment. Three, slaves all belonging to the same mistress, protested to the Assistant Protector in Somerset that her husband had "unjustly" beaten them. As the seventeen year old November told it, the husband had ordered him to call all the other slaves into the house. He and two other slaves had, instead, hidden themselves in the goat kraal because they thought that he needed the slaves to witness of the whipping of another slave (as the law required). The husband discovered them, and beat them with a cat o'nine tails. As the slaves saw it, the punishment was unjust since they had done no wrong, and had only wanted to save one of their companions from the cat. The Assistant Protector refused to hear the complaint, and told November and his friends that, in the future, they should do as they were told.[31]

If the slaves argued that some punishments were unjust, they admitted, as well, that some of them were deserved. These cases only enter the Protector's reports when a slave had first initiated, then dropped a complaint. They are therefore rather ambiguous, since, at least initially, the slave had thought that the punishment had been unmerited. Instances in which the slaves more fully accepted the discipline will rarely be a part of the Protector's records.

The slave Blom went to the Protector of the Eastern Division in Graaff-Reinet to tell him that his master had punched him in the face and lashed him with a sjambok. But, he added, "he did not come to Complain of the severity of the beating... but because it was undeserved." At the Protector's hearing, Blom's resolve slipped away. He did swear that he had been hit and beaten, but acknowledged "having given a hasty and insolent answer to his Master which provoked him to strike...." He said that "he frequently gets drunk and merits punishment... that he has been with his present master all his life and has been

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[29] Report of the Protector of Slaves, Assistant Protector, Stellenbosch, 24 June 1831, PRO, CO 53/52.

[30] For instance, Floris' case, Report of the Protector of Slaves, Western Division, 26 July 1833, PRO, CO 53/56.

[31] Report of the Protector of Slaves, Assistant Protector, Somerset, 28 May 1833, PRO, CO 53/55.

treated better than he deserved." Blom withdrew his complaint.[32] It would be tempting to write off his words as the maudlin self-hatred of an alcoholic slave, but there are too many other cases of slaves having made, and later withdrawn, complaints.[33]

It might be argued that this apparent acceptance of punishment is the inauthentic response of a slave in a power-laden situation in which the slave was the person at risk. This was, no doubt, sometimes true, but there are too many examples of similiar behavior for them all to be dismissed in this way. Or, it might also be contended that to accept the legitimacy of any punishment designed to reinforce an essentially unjust system such as slavery is, in itself, the sign of a damaged personality, and, so, is unreliable. But how many slaves could emerge from slavery unscathed. It seems most likely that many had accepted slavery, however grudgingly, but insisted on certain boundaries of acceptable behavior within it.[34] Within these bounderies, they could defend their humanity. The question then becomes where and why were the bounderies drawn. We can begin to glimpse an answer if we return to the hearings in Mey's case.

Major Rogers heard the testimony of four slave witnesses besides Mey, Carolus, Groot Frans, and George. He did not record their testimony in detail. He merely noted that the gist of their evidence supported what Carolus and Groot Frans had said. They had not complained about the beatings because they had "deserved" it. As they put it, they had "neglected to go to their Work at the Proper time and therefore," they added significantly, "did not Suppose they could have been Considered to have any Grounds of Complain [sic]." This last is the key phrase. The slaves' sense of justice must have been shaped by the circumstances in which they lived. Perhaps the paternalism to which their masters were rhetorically committed (and to which

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[32] Report of the Protector of Slaves, Eastern Division, 23 January 1834, PRO, CO 53/57.

[33] See, for instance, Clara's case. Report of the Protector of Slaves, Assistant Protector, Stellenbosch, 28 May 1833, PRO, CO 53/55.

[34] American slaves thought, apparently, along the same lines. Peter Kolchin has recently written that "[c]entral to the whole process of resisting punishment was the slaves' belief that the intended discipline was unjust and undeserved. ...for most it was the injustice of the punishment rather than the physical pain it produced that provoked fury and resistance." Peter Kolchin, Unfree Labor: American Slavery and Russian Serfdom, (Cambridge: Harvard University Press, 1987), p. 315.

I believe they had a pratical commitment as well)[33] was a part of it. No doubt the slaves' religious and personal convictions played a role. It is, however, doubtless that a central part of those circumstances were the slave laws and the Protector.

Before the law could help the slaves, they had to help themselves. While the Order invested the Protector "with full power and authority" to enter any farm cultivated wholly or partially by slaves "for the purpose of communicating with any Slave...," it did not require periodic inspections.[34] The Protector would act only after the aggrieved slave, or a friend of the slave, had made a complaint.

Mey had probably found out the details of the slave laws and the workings of the Protector's office through old Hendrik himself--through Hendrik's protests, that is. In April, 1831, the Governor of the Cape Colony, Sir Galbraith Lowry Cole, sent to the Colonial Office petitions from all over the colony, signed by hundreds of slaveholders, denouncing the slave law that had superceded Ordinance Nineteen in 1830. Among the signatories to the petition from the the Cape District was Hendrik Albertus. The petition went into great detail to explain why various of the provisions threatened the masters' property rights in their slaves, the safety of their families and themselves, and were unsuited to the Cape. The new ordinance caused a furor of which the petitions were only a part. The culmination of the troubles was a boisterous, mildly destructive, five day protest in Stellenbosch.[37] Some of this turmoil, and the reasons behind it, would have been visible to the slaves.

More important were the circumstances surrounding the letters to the editor of the Zuid-Afrikaan that both Hendrik, Sr., and Hendrik, Jr., signed in May, 1832. The first letter came from 105 Koeberg farmers. It condemned the Order in Council of 1831, a further revision of the slave laws. Though it had yet to be published officially in the Cape, the Zuid-Afrikaan had extracted it from the Anti-Slavery Reporter (of London), and printed it in

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[33] I will develop this below.

[34] Order in Council, 2 November 1832, Government Gazette, 17 August 1832.

[37] For the petitions see, Lowry Cole to Goderich, 1 April 1831, CAD, ZP 1/1/74 (microfilm). On Stellenbosch see, Lowry Cole to Goderich, 3 July 1831, PRO, CO 48/143, and South African Commercial Advertizer, 23 April 1831.

late April and early May.[38] The letter specifically complained of the supposed ease with which a slave could press charges of ill treatment against his or her master, and the virtual conspiracy that existed between the Protector and the slaves.[39] The second letter, signed by nearly as many men as the first, was composed "[a]t a Meeting of Agriculturalists held at Koeberg at the House of Mr. H.A. van Niekerk, Sen., on the 22d May, 1832."[40] The letter was a further condemnation of the slave law, and a rebuke of the editor of the Commercial Advertizer, who had questioned the farmers' integrity.[41] It seems unlikely that Mey, and van Niekerk's other slaves, could have failed to learn something about protections that the law had granted them.

Even after the protest meeting, Mey probably could not have recited the Order in Council by chapter and verse. But he was able to act on the basis of a general knowledge of the law's provisions. He acted as if he knew that "each and every Slave" in the colony had the right "to resort" to the Protector with or without his or her master's permission. His specific complaints were also consistant with the law: he had been beaten over unhealed wounds; the cause of the punishment had not been "reasonable and adequate;" the instrument used had been unusually severe; the number of stripes that he had received in the first instance (though he was contradicted on this) exceeded fifteen.[42]

These provisions probably helped shape the Cape slaves' notions of what was just and unjust discipline. But they did not define it. The slavery reform laws were relatively recent innovations, and the personal accomodations that masters and slaves made with one another were probably more influential. Notably, Mey acted only on the first two of the protections against capricious punishment mentioned above. Perhaps the first punishment, which strictly speaking was illegal, and for which Hendrik paid £70 in fines, did not stray far enough outside the boundaries of the acceptable for Mey to go to the trouble and, perhaps, risk, of making a complaint. This was true of the other slaves. The second punishment, however, exceeded the limits of what Mey believed was permissible between master and slave. Mey

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[38] Zuid-Afrikaan, 27 April and 4 May 1832. In Dutch and English.

[39] Ibid, 4 May 1832. In Dutch and English.

[40] The Koeberg district contained but one H.A. van Niekerk, Sr.

[41] Zuid-Afrikaan, 25 May 1832.

[42] Order of the King in Council, 2 November 1831, Secs. XIII and XXXVII, Government Gazette, 17 August 1832.

resisted, and in doing so struck a blow against his exploitation as a worker, and moved streets away from the powerlessness and degradation that, in theory, is the condition of the slave. In order to acquire the power that made this possible, he acted through the Protector, and, like Mey, it is to Major Rogers that we now turn.

Act II: George Jackman Rogers

The world being what it is, much more can be known about the rich and strong than about the poor and weak. George Jackman Rogers was one of the former, and many of the facts and incidents of his life, and much of his public thinking have entered the historical record. In great contrast to Mey, Roger's precise age, his family life, career, and private business dealings can all be traced in the documents preserved over the last 150 years. His thoughts about slavery, and his notions about the slaves and his responsibilities toward them, are preserved in the records of the office of the Protector of Slaves, a position he held for roughly seven of the eight years that it existed. There is ample evidence to illustrate why Rogers acted as he did in the case of Mey and Hendrik Albertus.

He was born in England in perhaps 1784.[43] He entered the British Army as an Ensign during the Napoleonic wars. By 1814, Rogers had married and attained the rank of Major. Officer and wife arrived in Cape Town in April, 1814, as a part of the entourage of the new Governor, Lord Charles Somerset. Between then and 1839, Rogers served in a number of government posts beginning with aide-de-camp and military secretary to Lord Somerset, extending to Acting Auditor of Accounts, Registrar of the Slaves and Deeds, and Guardian[44] of Slaves. He held the last-mentioned post from 1826 to 1834, missing only 1829.[45] Along the way, Rogers became rather rich. He was "amongst other things a land speculator & owned a great deal of property throughout the Peninsular [sic]."[46] His salaries no doubt

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[43] There is a lack of correspondance between the information in Governor Sir George Napier to the Most Noble the Marquiss of Normanby, Secretary of State for the Colonies, 6 November 1839, CAD, GH 23/12 (which I am inclined to accept), and Peter Philip, British Residents at the Cape, 1795-1819, (Cape Town: David Philip, 1981), p. 354.

[44] The name of the office was changed to Protector in 1830.

[45] Philip, British Residents, p. 354; and Reports of the Guardians and Protectors of Slaves, PRO, CO 53/000-000.

[46] Philip, British Residents, ibid.

helped; they were substantial throughout his administrative career. By the time the Protector's office was terminated, in 1834, he earned £700 anually. This put him in the lower end of the upper range of governmental salaries, roughly equidistant between the Clerk of Council (£500) and the Treasurer (£1,000).[47] He left the government service on 1 January 1839 with an annual pension of £400.[48]

The Protector also owned slaves. He acquired his first, a male cook named Michiel, in 1818; he bought Minerva, a seamstress, in 1825. He manumitted both in 1831, inexplicably a full year after the publication in the Cape of the Order in Council of 2 February 1830, which required him to be rid of them, superceeded Ordinance Nineteen of 1826.[49] The earlier law had prohibited the Protector and his immediate family from owning slaves engaged in agricultural labor. The latter law, and the Order that followed in 1832, denied the official the right to own any slaves at all.[50]

We can go beyond the bare facts, and discover what this prosperous, middle-aged, slaveowning military man thought about mastery and slavery. The evidence is contained in the "Half-Yearly" reports he wrote and delivered to the Governor to be sent, eventually, to the Colonial Office in London. The Secretaries of State for the Colonies were by no means confident that the Protectors in the various colonies would perform their jobs vigorously enough to hold off pressure for greater reform from the anti-slavery forces in Parliament, and called for the reports as a check on the Protectors' performance. The Londoners read the reports skeptically.[51] As a consequence, the Protectors, Rogers included, devoted much of the "General Observations" section of their reports to explaining and justifying themselves to their overseers.

It must often have seemed to the Colonial Office, worried as they were about how the reports would read to the anti-slavery

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[47] The South African Directory and Almanac for 1834, (Cape Town: George Greig, 1834), pp. 148-149, 155.

[48] Napier to Normanby, 6 November 1839, CAD, GH 23/12.

[49] Slave Register, Cape District, CAD, SO 6/28.

[50] Ordinance Nineteen of 1826, PRO, CO 50/1; Order of the King in Council, 2 February 1830, PRO, CO 50/1; Order of the King in Council, 2 November 1831, Government Gazette, 17 August 1832.

[51] See, for instance, Huskisson to Lowry Cole, 22 April 1828, reply to Report of the Guardian of Slaves, 24 June 1827, PRO, CO 53/48; Raynor, "Wine and Slaves," pp. 277ff.

parlimentarians, that they had good reason to be troubled by Rogers. In 1830, for instance, he condemned the Order in Council which had followed Ordinance Nineteen almost as energetically as the masters. It was with "infinate [sic] regret," he wrote, that he felt "bound to declare that the Order in Council does not appear... likely to produce any good Effect upon the Moral and Social condition of the Slaves." The changes in the slave laws and the debates over abolition in Parliament had kept the Cape masters in a state of "constant agitation." This, he claimed, had made them "morose and certainly less kind to their Slaves than formerly."[52]

As for the slaves, they had come to believe "That their Emancipation must be near, and therefore pay less regard to their Owners, and in short look upon them as their worst Enemies and the only impediment to their liberation...." The result, it seemed to him, was the collapse of the bond of paternalism. "The tie which formerly existed between the Master and the Slave seems thereby completed [sic] severed, the Master does little now for his Slave from real regard, and the Slave nothing for his Master from Affection."[53] The slaves, whom three years earlier he had thought were "far better off than millions of the lower orders in Great Britain and other parts of Europe," were the greatest losers.[54]

Rogers deplored this state of affairs, and saw his job as one of compromise and reconciliation. He wanted to mend, not disturb, the paternalistic ties between the masters and the slaves, and bring each of them to a sense of their respective rights and duties. In 1827, he wrote that he had "assured" the slaves who had come to his office

> that they will be protected from undue severity in all cases and that they will be supported in the rights which they can fairly establish, and the proprietors on the other hand have seen the benefits which have resulted from the Guardian's interference in conciliating between them and their slaves; many opportunities having been afforded him of bringing slaves to a sense of sorrow and promises of future amendment....[55]

His job was difficult, and the problems, it seems, came from two

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[52] Report of the Protector of Slaves, 27 December 1830, PRO, CO 53/51.

[53] Ibid.

[54] Cover letter, Report of the Guardian of Slaves, 31 December 1827, PRO, CO 53/48.

[55] Quoted in, Raynor, "Wine and slaves," p. 275.

directions.

First, there was the workload. From the moment the Office was created, the Protectors struggled to keep up with the flood of cases. Especially in the two most westerly regions, the Cape and Stellenbosch districts, in which roughly two-thirds of the slaves lived, "Applications, Inquiries, and calls for interference and assitance" deluged the Protectors.[56] The office had to cope with "chronically inadequate staffing."[57] This situation was not unrelated to what Rogers saw as the stupidity and malevolence of the slaves. "It is inconceivable," he once grumbled,

> ...to those who have no means of Observing It, how embarrassing the various Applications for information, Advice and Assistance have become, from a misconception in many Instances of the Powers, with which the Slaves from the Country conceive, or affect to believe, the Protector to be vested, some advancing the most extraordinary requests from actual simplicity, whilst others with the most artful cupidity and affected Ignorance resort to this Office merely to embarrass and waste the time of their Owners.[58]

From the slaves point of view, this would seem to be a recipe for disaster, and it is true that many slaves came to grief at Chez Rogers.

The slave Floris fell foul of almost every one of Roger's prejudices. In the course of the Protector's hearing into Floris' complaint of ill-treatment against his master, the evidence showed that Floris had failed to perform his work, and had been "impudent when upbraided" for it by his master. Rogers threw the complaint out, noting in his report that Floris "was known at this office as a Stubborn Character."[59] Similarly, Rogers refused to act on Adonis' complaint that his girlfriend's master had beaten him with a broomstick when he had visited her without permission. The Protector wrote that he dismissed the complaint because Adonis' evidence was weak, and "as Adonis was a bad character."[60] As a matter of routine, Rogers would not hear

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[56] Report of the Guardian of Slaves, 24 June 1827, PRO. CO 53/48.

[57] Raynor, "Wine and Slaves," p. 276.

[58] Report of the Protector of Slaves, Western Division, 26 July 1833, PRO, CO 53/56.

[59] Ibid.

[60] Report of the Protector of Slaves, Western Division, 7 January 1833, PRO, CO 53/55.

the complaints of slaves whose masters could show them to have neglected their work, to have been insolent, or those whom he knew to be troublesome.

It is no wonder that the two historians of amelioration have held Rogers at arms' length. Isobel Edwards wrote quietly that his "sympathy often lay with the masters rather than with the slaves."[41] Mary Raynor has been harsher. Rogers, she argues, "showed great solicitude for the feelings of slave proprietors," due, in part, to his "absorbtion of slaveowners ideology."[42]

These assessments are too unforgiving. Rogers at times pursued the slaves' interests with energy and determination. While his personal outlook was undeniably paternalist, his was the paternalism of a British colonial officer, a rather different thing than that of the colonial slaveholder. Raynor would have been closer to the mark had she followed up on her assertion that the workings of the Protector's office were "fraught with ambiguity."[43]

Ambiguous is the word. In the midst of one of his celebrations of slaveholder paternalism, Rogers interrupted himself to note that slavery was a "Curse which must have Its many attendent Evils wherever it Exists...." He then wrote that it "should now be got rid of," though only by "Legal and Justifiable means...."[44] The Protector's records provide few other quotes which would illustrate Roger's unease with slavery as a system, but they do supply many examples of him working hard on behalf of the slaves.

For instance, the deal making involved in Annet's bid for freedom, or, failing that, to assert some control over her life, shows Rogers at work. Annet complained that her master had backed out of his promise to allow her to buy her freedom. She said that he had told her that he was willing to "dispose of her for her freedom" for 400 Rix Dollars [RXD]. Annet had found a woman who was willing to advance her the money, but, now, her master was about to "sell her into the Country...." She was a Cape Town slave, and had no desire to leave home. Rogers summoned Annet's master into his office. The master said that his slave's charges were true; he had found a buyer who was ready to pay RXD1,500 for Annet and her daughter. Rogers negotiated

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[41] Isobel Eirlys Edwrds, Towards Emancipation: A Study of South African Slavery, (Cardiff: Gomerian Press, 1942), p. 122.

[42] Raynor, "Wine and Slaves," pp. 276-77.

[43] Ibid, p. 274.

[44] General Observations, Report of the Protector of Slaves, 25 December 1830, PRO, CO 53/51.

for Annet. He called in her financial backer. She proved to be willing to loan Annet the RXD400 provided that Annet serve the woman until her death, and her son until his twenty-first birthday. Annet's master, at first, rejected the offer. After "some difficulties and delay" he gave in, and agreed to forego the RXD1,500. Annet was transferred to her new owner. This was not a complete victory for Annet, she remained a slave, but she had managed to avoid being sold away from her home town.[43]

Rogers expended some considerable energy arranging a self-purchase scheme for another Cape Town slave. Christiaan appeared at the Protector's office to ask him to petition the Orphan Chamber (which controlled insolvent estates) for him. Before her recent death, his mistress had consented to manumit him upon the receipt of RXD1000. He told Rogers that he had not been able to raise the money while she lived, and he could not raise it now. He felt certain, however, "that as he is a Painter, he could pay it by degrees...." Rogers approached the Chamber's board, and, after a series of meetings, secured Christiaan the agreement that he wanted. The Protector thought that the slave would soon be free since he was "industrious" and "can earn very liberal wages."[44]

Rogers was rarely unwilling to help a slave arrange a self-purchase deal, even if the master initially resisted. Here the law helped direct his energies, since the Nineteenth Ordinance and subsequent legislation guaranteed the slaves the right to purchase themselves and family members, subject to certain restrictions, despite any objections the master might have.[47] Rogers, however, went beyond what the law strictly required. In 1831, he helped a free black buy the freedom, on the installment plan, of his slave family.[48] And in 1831 and 1833, he spent parts of several months helping the slave Andries rid himself of his shrewd and stubborn free black master, Abdul Wasie.[49]

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[43] Report of the Protector of Slaves, Western Division, 28 May 1833, PRO, CO 53/55.

[44] Ibid.

[47] Ordinance Nineteen of 1826, Paras. 33 and 34, PRO, CO 50/1; Order in Council of 2 February 1830, Paras. LVII and LVIII, PRO, CO 50/1; Order in Council of 2 November 1831, Paras, LXXV and LXXVI, Government Gazette, 17 August 1832.

[48] Report of the Protector of Slaves, 24 June 1831, PRO, CO 53/52.

[49] Ibid; Report of the Protector of Slaves, Western Division, 28 May 1833, PRO, CO 53/55.

In several of these and in many similar cases, Rogers acted contrary to the expressed interest of the slaveowners. The law allowed him to do so, of course, but had he been truly the slaveholders' lackey, he would not have crossed them so directly. There was, indeed, a conflict between the slaves' right to self-purchase and the property rights of the masters. Rogers tended to favor the rights of the slaves in these cases, though he did not neglect the rights of the masters since the law required that the purchase price of the slave be fair. And the slaves whom the Protector helped were special. They were the ones who had some access, either directly or through an angel, to cash. They would probably have been unusually industrious or unusually well thought of. In either case, they would not have been the impudent or troublesome slaves whom Rogers abhored.

There was another class of slave who could be sure to receive Rogers sympathy. These were slaves who obviously had been wronged by their masters. He was outraged, for instance, when his investigation of Magtelda's complaint revealed that, as she had charged, her master had gotten her pregnant, taken her child away from her after she had delivered, and attempted to send her to Algoa Bay, over 300 miles away from her mother and new-born child. Magtelda was fourteen. Rogers pressured the master to return the girl's child to her and not to send her away. When the master proved obstinate, he threatened a very public lawsuit. Magtelda's master then "consented to make her free... and engaged that [her] child should be immediately restored to her."[70]

In the slave Maart's case, Rogers helped him repair his Hottentot marriage. His master had ordered Maart's "Hottentot" wife off the farm after having argued with her. Maart told the Protector that he was "finding it hard to be separated," and asked him to intercede with his master. Rogers wrote a letter to the master asking him "to forgive what was past, and to take Maart's wife again into his service and restore Maart to his favor...." There is no record of the letter's effect.[71]

Rogers' aggressive pursuit of old Hendrik no longer seems to be out of character. Mey and, probably, the others were the very sort of slaves whom the Protector tended to prefer. They clearly had been wronged: their wounds were severe and their faults had been slight. Mey, especially, was a good slave: the van Niekerks had not accused him of insolence or disrespect, only neglact of his work, and had even eulogized him as a "Good Working farming Man." Finally, Mey and the others were not

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[70] Report of the Protector of slaves, 24 June 1831, PRO, CO 53/52.

[71] Report of the Protector of Slaves, Western Division, 28 May 1833, PRO, CO 53/55.

troublesome: no van Niekerk slave had ever before lodged a complaint with the Protector.[72]

Rogers was no abolitionist, but he was more even-handed in seeking justice for the masters and slaves than historians have recognized. He was, in fact, a paternalist. His was a state paternalism rather than slaveholder paternalism, a paternalism bounded by the rule of law, not by the master's caprice. It is only in light of his relative evenhandedness that the bitterness Cape Colony slaveholders, Hendrik Albertus among them, felt towards the Protector and the reform laws can be understood. The final act, then, is Hendrik's.

Act III: Hendrik Albertus

Viewed from the vantage point of the late twentieth century, Hendrik Albertus van Niekerk's life seems to have been a success. He was prosperous and prolific, a man of influence who died in old age. His passage through life was public enough to have left a considerable record. As was the case with Major Rogers, it will be possible to discover a plausible and personal answer to the last of the three crucial questions that I have tried to answer: why did Hendrik Albertus free Mey and compensate the seven other slaves? The solution lies in his individual response to specific circumstances. This small drama was, however, played out on a larger stage on which the essential scenery had been set by people and forces other than Hendrik, Mey, and the Protector.

Hendrik was seventy-three in September, 1832, near the end of a long life.[73] He had been born in the Cape Colony and was baptised in 1759. He married twice; first, to Jacoba Dreyer in 1778, second, to Hester Smit, probably in 1817. Five children resulted from the two marriages, the eldest born in 1779, Hendrik, Jr., in 1788, the last in 1819.[74] He died sometime between July, 1833, when he signed his will, and November, when his slave property was transferred to his heirs.[75]

Van Niekerk was a grain farmer. In his time, he had made himself perhaps the richest man in the Cape District, the region described in 1832 as "the chief corn [grain] district of the

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[72] Rogers noted this in, Report of the Protector of Slaves, Western Division, 28 May 1833, PRO, CO 53/55.

[73] De Villiers and Pama, Old Families, p. 636; Will and Testament of H.A. van Niekerk, Sr., CAD, MOOC, 7/1/120 (1833).

[74] De Villiers and Pama, ibid; Will and Testament, ibid.

[75] Will and Testament, ibid; Slave Register, Cape District, CAD, SO 6/26.

Colony....[74] He owned two farms, Rondebosjes Heuwel and De Goede Ontmoeting, both in Koeberg.[77] On them he grew far more wheat, barley, rye, and oats (in 1825, the last year before his death for which tax records still exist) than anyone else in the district, and more than twice as much any of the other farmers in his Field Cornetcy.[78] Besides grain, he raised horses, cattle, and sheep. The 1825 tax rolls list twenty-six saddle or wagon horses and sixty-five breeding horses, 110 drought oxen and fourty-five breeding oxen, along with 150 wethers. There were seven wagons or carriages for the livestock to pull.[79] To work the land, property, and livestock Hendrik had his second wife and a step-daughter, his boy, Hendrik, and his wife and children, and two white employees, a man and a woman.[80] Then there were the slaves.

Hendrik Albertus owned fifty-six of them. This made him one of the greatest slaveholders in the colony in terms of the number of slaves owned. In the early 1830s, the average slaveholding was a bit under six per master, and no one at the Cape owned more than ninety.[81] Thirty-seven of the slaves were of working age, that is, sixteen and over; twenty-six of these were men. Of the children, ten were boys and nine girls. To this slave community should be added Hendrik, Jr's., slaves. He owned eleven men, one woman, and one child. In all there were sixty-nine slaves on the van Niekerk farms, and forty-nine men and women to share the work.[82] The slaves had a variety of skills. In the slave register, they are listed as coachman, "waggoner," shepherd, labourer, blacksmith, and maid. These were not their exclusive occupations; Hendrik moved his hands around as he saw fit. Working the fields with Mey on the Saturday he was whipped were waggoners, laborers, and a horsekeeper.[83]

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[74] South African Almanac for 1832, p. 126.

[77] Will and Testament, CAD, MOOC 7/1/120 (1833).

[78] Opgaaf Roll, Cape District, 1825, CAD, J 56.

[79] Ibid.

[80] Ibid; Will and Testament,CAD, MOOC 7/1/120 (1833).

[81] I know that these figures are approximately correct, but the notes that I need to prove it are in the States. Can anyone give me a handy citation?

[82] Slave Register, Cape District, CAD, SO 6/26.

[83] Ibid; Day Book, Assistant Protector of Slaves, Cape Town, Vol. 4, CAD, SO 5/9.

These facts will not, alas, speak for themselves. They reveal that Hendrik Albertus was a rich man, a local magnate, a farmer, and a slaveholder. The facts are critical, however, because they influenced the way in which van Niekerk conceived of and operated in the world. His worldview was that of a paternalist. Paternalism can be applied usefully to the broad set of ideas through which the Cape slaveholders understood their world, and which guided their actions in it. They did not use the precise word, but they spoke of "paternal authority," and likened their position within their households of slaves and kin to that of a father and a judge.

It is best to begin with definitions and qualifications. The Oxford English Dictionary supplies the following as its first definition of "paternalism:" "The principle and practice of paternal administration; government as by a father; the claim or attempt to supply the needs or to regulate the life of a nation or community in the same way as a father does his children."[84]

David Roberts provides a slightly more specific outline in his study of paternalism in early to mid nineteenth-century England. Paternalists assumed that society should be authoritarian, hierarchical, organic, and pluralistic. Authoritarianism "followed naturally from the very word paternal, which means fatherhood.... Fathers command and exact obedience." Paternalists "never doubted that God had created a heirarchical society and that such a society was necessary and beneficial...." They believed in an organic society, "in a body politic, one in which every part had an appointed and harmonious place. Whether a plowman or a bishop...." Society was, accordingly, pluralistic; it "consisted of many differing spheres...."[85] These are very similar to the attributes that Eugene Genovese ascribed to slaveholder paternalism in his classic study slavery in the United States, Roll, Jordan, Roll.[86] Roberts' framework is liberal enough not to be restricted in its usefullness to early Victorian England, yet specific enough to help shape a search for paternalism in the late Georgian Cape Colony.

The qualification, almost a warning, is simple. I will quote Genovese: paternalism in the South had "little to do with Ole Massa's ostensible benevolence, kindness, and good cheer. It grew out of the necessity to discipline and morally justify a system of exploitation. It did encourage kindness and affection,

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[84] Oxford English Dictionary, 2nd Ed., (1989).

[85] David Roberts, Paternalism in Early Victorian England, (New Brunswick: Rutgers University Press, 1979), pp. 2-3.

[86] Eugene D. Genovese, Roll, Jordan, Roll: The World the Slaves Made, (New York: Pantheon, 1974).

but it simultaneously encouraged cruelty and hatred. The racial distinction between master and slave heightened the tension inherent in an unjust social order."[87] As will be seen, he might have been speaking of the Cape.

Hendrik Albertus signed his name to several public documents bearing directly on the relations between masters and slaves. A succinct statement of the paternalist outlook is not to be found in any of them. This is to be expected. They were all written for a specific purpose, either to protest a change in the slave laws, or to defend the points made in an earlier attack, not to elaborate a worldview. Each of the documents, however, argues from a paternalist theoretical base, so to speak, and makes use of the language of paternalism to set forth its case.

In late 1830 or early 1831, for instance, van Niekerk signed a petition addressed to the Governor of the Cape that asked that certain provisions of the Order in Council of 2 February 1830 be repealed or suspended. The petitioners argued that "several Sections" of the Ordinance were "inconsistant with the welfare" of the colony, and "the preservation of good order and discipline in domestic affairs...." They were sure that the law, therefore, could not "answer the paternal object of His Majesty." Among the enactments specifically complained of were the restrictions on the corporal punishment of slaves and on the breakup, by sale, of slave marriages.[88]

The conception of society as paternalisticly structured, from the Sovereign down, is implicit—the King as father. Though the language of the petition is formal and highly ritualized, it is important to note that the ritual language is that of paternalism. Also implicit is the idea that the farm is the society in miniature. The master replaces the King, and, so, is responsible for maintaining order in the interest of the well-being of all under his discipline and protection.

Two letters that the farmers of Koeberg sent to the editor of the Zuid-Afrikaan decrying the Ordinance in Council of 2 November 1832 are less rhetorical and more explicit in their defense of paternalism. Hendrik van Niekerk, Sr., and Hendrik, Jr., both signed the letters. Old Hendrik's is the second signature on both, just after the Field Cornet's. In the first, the farmers claimed that the law "would violate our sacred rights of property, would way-lay our safety as fathers of families and burghers," and would ruin the colony's economy. One of their

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[87] Genovese, Roll, Jordan, Roll, p. 4.

[88] Petition from Agriculturalists of the Cape District, enclosure, Lowry Cole to Goderich, 1 April 1831, CAD, ZP 1/1/74 (microfilm). In Dutch. Translation enclosed in dispatch.

grievences was that the Protector of Slaves was empowered to enter their property without their permission to speak with their slaves. "[N]o person," they argued, "who values his family quiet and safety will submit himself to it, or permit any officer without his own consent, to enter his dwelling...." The right given the Protector to cross onto the master's property without permission was a contradiction of the master's authority as father and ruler of his household. In this case, the Protector's authority would be obviously superior. The farmers feared that this loss of face before their slaves would weaken the discipline that maintained domestic order.[89]

The second letter, which came out of the protest meeting held on old Hendrik's homestead, again addressed the Order in Council. It reaffirmed the farmers belief that the law compromised their property rights, their own safety and that of the household, and what they called "that inviolable house-right [huisregt], which is held so sacred by the most uncivilized nations...."[90] Again, the complaints are grounded in fears for the integrity of a world defined by authority and heirarchy. The elements of paternalism that posit a harmonious, organic and pluralistic society are not visible here. This is not significant; the farmers were not interested in composing a treatise on paternalism. Other men, significantly enough, not men with farms to run but, townsmen and intellectuals, drafted reasonably elaborate discussions of Cape paternalism.

One of the earliest comes from the Court of Justice of the Cape Colony. In 1796, it responded to a request from the governor to comment on his proposal to abandon the use of torture in the execution of "blacks," mostly slaves. The Court argued in favor of torture. It was a necessary part of the criminal law since the slaves, "many of whom are descended from wild and rude Nations... hardly consider the privation of Life as a punishment, unless accompanied by such cruel circumstances as greatly aggravate their bodily Suffering." The judges then turned their attention to master and slave. For the same reasons that torture was necessary, the law ought to "leave in the hands of the Master such power as is necessary for him to exercise in the Direction of his Family." To do otherwise would be dangerous because, in

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[89] Zuid-Afrikaan, 4 May 1832. Text in Dutch and English. They did not neglect the benevolent side of paternalism. They contended that, were they to follow the new law to the letter, the slaves would have less to eat. Rather than the stingy diet prescribed by the Order, their slaves, they claimed, then received "nearly one pound of meat," two to three pounds of bread, soup, and, at harvest, "1-1 1/2 bottles of wine" per day.

[90] Zuid-Afrikaan, 25 May 1832. In Dutch and English.

every family, "the number of Slaves is... great...."[71]

Though the Court associated the master with the father, it did not believe that paternalism had developed fully in the colony. The judges' remarks on paternalism turned prescriptive rather than descriptive. They thought that the

> Masters should zealously endeavour to conduct themselves as Fathers rather than Judges in their Families, and act according to the strictest Rules of Virtue and Humanity, not only in punishing but also in rewarding.... Upon these principles we would flatter ourselves with the hopes that it is not impossible to inspire the Slaves with affection for their Masters, for it is indisputably true that affection is a reciprocal sentiment....

They regretted that this situation did not yet obtain. The threat, or promise, of judicial terror was still required.[72] This is a fine statement of the paternalist ethos, though it is, unfortunately for the present purposes, a description of what ought to have been, not what was. The ideas, however, were abroad in the land, and it is probable that, over the next thirty years, they flourished.

In 1826, another body of substantial men of Cape Town, the Burgher Senate, wrote to another Governor opposing another alteration in the laws of slavery. They wrote as if an already existing paternalism were threatened. They argued that "every calm and impartial man" would agree that the new law, Ordinance Nineteen, "encroached" unjustifiably on the property rights of the master. Two of the Ordinance's innovations especially worried the Burghers. The first was "the odious power" given to the Guardian of Slaves "of interfering in the arrangement of private affairs, and in the disposal of private property, whereas the law of the land should be the only acknowledged superior to the head of every private family in his domestic arrangements." They quoted with approval "one of His Majesty's most distinguished Ministers:"[73] As a result of the Ordinance, the

> mutual confidence between the Master and his Slave will be destroyed <u>by stepping in between them,</u> insubordination will be fostered on the one hand, and distrust engendered on the other.... Instead of making use of the master as the best and only medium to act

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[71] Court of Justice to Maj. Gen. Craig, 14 January 1796, in Andre du Toit and Hermann Giliomee, eds., <u>Afrikaner Political Thought: Analysis and Documents, Vol. 1, 1780-1850</u>, (Berkley: University of California Press, 1983) pp. 91-93.

[73] Does anyone know whom this might have been?

> with safety on the slave population, instead of allowing every indulgence and improvement in their condition to proceed as a boon through his hands... it has unfortunately happened that the master has been placed in the odious and dangerous light of being the only obstacle to the entire emancipation of the slave.[74]

This petition was hardly a disinterested analysis of society; in arguing that paternalism lived at the Cape, and was under seige, the Burghers were pleading a political cause. But so the Court of Justice had been three decades earlier, when they could discover only an attenuated paternalism.

The Burgher Senate was not alone in thinking that paternalism had come to the Cape. We have already seen that the petitions of 1830-1831 used the language of paternalism to defend parts of its substance. We have heard the remark one slaveholder made to a Protector of Slaves in 1833: the slaves "are children and must be treated as such or spoiled."[75] Christoffel Brand, the brilliant and fiery editor of the Zuid-Afrikaan, spoke of the masters' paternalism when he wanted to stir the blood of the assembled slaveholders at a Cape Town meeting called to protest the Order in Council of 2 November 1831. He mentioned property rights and safety, but those were not his emphases. Brand appealed to their self-image. He spoke of the master's role, and how the rights given the slaves inhibited them in fulfilling it.

> ...Some people accuse us Afrikaners [Afrikaanders] of being vicious oafs. But, my friends, the charge is false. Our children are beaten and punished when they deserve it. Yes, we chastize our own blood, and are our slaves better than that?
>
> Why may we not punish our subordinates when they misbehave? Each one of us, as men and citizens, must be subordinate to the Governor as our Regent, but is the slave subordinate to nobody?[76]

Brand brought forward the paternalist components of authority and heirarchy, but behind them was a vision of an organic world in which children, slaves, and masters each have their appointed roles.

In the southern United States, the early nineteenth century

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[74] Burgher Senate to Acting Governor Lt. Gen. Richard Bourke, 30 June 1826, in RCC, Vol. 27, pp. 93-94. Emphasis in the original.

[75] Quoted in, Report of the Protector of Slaves, Eastern Division, 14 August 1833, PRO, CO 53/56.

[76] Speech of 17 September 1832, in, Du Toit and Giliomee, Afrikaner Thought, p. 109.

was the period in which slaveholders began widely to adopt an intellectual and practical allegiance to paternalism. Historians have accounted for this shift away from the "instrumental attitude" toward the slaves by citing the rise of humanitarian values in western societies, as well as the suppression of the overseas slave trade and the consequent rise in the price of slaves. The slaveholders began to view the slaves--many of whom were now second, third, and even fourth generation Americans--less as investments, and more as "their people."[77] Each of these factors was at work in the Cape during the same years.

The intellectual currents which moved through the West moved also through the Cape Colony. Many members of the Cape Dutch-speaking elite had been educated in Europe; from the 1820s, the Cape Newspapers and journals kept their readers up to date on European politics and literature. The importation of slaves had ended. An Act of the British Parliament had outlawed the colonial slave trade in 1807. As a result, the price of slaves doubled between 1808 and the mid-1820s.[78] More and more slaves were "van de Kaap," that is, South Africans. And, if Hendrik Albertus was representative of his class, the masters had begun to see their slaves as their volk.

Van Niekerk's acceptance of the coercive side of paternalism has been evident. This essay opened with two acts of corporal punishment performed by Hendrik and his son in the pursuit of labor discipline. Hendrik has been shown to have signed three documents which defended the master's property rights in his slaves, his right to discipline his household, and his right to be free of governmental interference. Van Niekerk also left traces of his commitment to the softer side of paternalism. His benevolence is apparent in his will.

Hendrik's will consists of the will itself, notorized in 1817, soon after his second marriage, and two amending documents, signed not long before his death in 1833. The 1817 will mentions only four slaves. Klarinda [also spelled Clarinda] is to be freed upon his death, "should she behave well and properly." Three others, all children at the time the will was written, are given separately to Hendrik, Jr., and two of his daughters.[79] Significantly, each of these slaves had been born at the Cape, and, except perhaps for Klarinda, were born into the van Niekerk

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[77] Kolchin, Unfree Labor, pp. 127-29; and see, Genovese, Roll, Jordan, Roll.

[78] On the price of slaves, see, Raynor, "Wine and Slaves," p. 208.

[79] Will and Testament, CAD, MOOC 7/1/120 (1833).Ibid.

household--the children's mothers were Hendrik's slaves.[100] That Hendrik looked upon some of his slaves as his volk is reflected in the amendments to the will.

Hendrik specifically mentioned twenty-seven of his fifty-six slaves in the amendments. Of these, twenty-one were born into his household, one was the husband of a woman born on the farm, and two were quite elderly. The birthplace of the other three is unknown.[101] Old Klarinda, who was ninety, was not to be sold, and might choose live with Hendrik's widow or any of his children. He stipulated that his "old Boy" Damon, who was seventy-five, could also choose to live with his widow or children, and "if he does not like it with the one, then he is free to go to the other." He reiterated that (young) Klarinda was to be freed after his death. He added that she should receive 1000 Guilders from the estate, the same amount as he left to his step-daughter. Floris, who was born on the farm, was to serve Hendrik, Jr., until his [Floris'] thirtieth birthday, and then be freed, a four year wait. Madelein, another farm-born slave, her husband and four children, were given to his daughter. Madelein was to serve her until she 'Madelein] turned thirty, in two years, and then be manumitted. Hendrik did not mention the freedom of her husband or children. Saronie and her children went to another daughter, with no mention of manumission. Little David was to serve Hendrik, Jr., until Jr.'s death. Festus, Willem, Abram, and Brutus, all in their late teens or early twentys and born to farm mothers, went to Hendrik, Jr. Four other farm-born slaves went either to the widow or to a daughter. And he left Leena and her two youngest children to his step-daughter.[102]

Most noteworthy here is not so much any great kindness that Hendrik Albertus showed to his slaves, though the slaves, whether they were awarded cash, freedom, or the privilege of not having their families broken apart during the estate sale, must have thought that it was. What is remarkable is the fact that at least twenty slaves who were probably not born into the van Niekerk household were not mentioned in the will and amendments at all. Only one slave (other than the two most elderly) who can be proven not to have been born into the household is mentioned.[103] That Hendrik apparently divided his slaves into two classes--those who were born on the farm, who were his volk, and to whom he was especially attached; and those who were not--

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[100] Slave Register, Cape District, CAD, SO 6/26.

[101] Ibid.

[102] Will and Testament, CAD, MOOC 7/1/120 (1833).

[103] Slave Register, Cape District, CAD, SO 6/26.

probably reflects the development of Cape paternalism.

During the course of van Niekerk's life, the slaveholders at the Cape were in the process of constructing a paternalist worldview. Between 1796, when the Court of Justice prescribed paternalism as something that the slaveholders ought to adopt, and 1826, when the Burgher Senate claimed that Ordinance Nineteen threatened to destroy the paternalism that obtained, Hendrik moved with the times. He probably began to see his slaves less as simply a means of production and more as people. He would have found it difficult to begin to think of individuals as volk who had, for him, always been tools. It would have been easier to see the humanity of a new generation, a generation born during the years in which he himself had become a father. In his will he treated his oldest slaves with a respect due their years; he treated his younger slaves with indulgence. It is those caught in the middle, the thirty to fifty year olds, who were to be sold away with the plows and harrows of the second farm.

Here, we have arrived at the point at which we can offer a plausible explanation of why van Niekerk did what he did to settle the case that Mey brought against him. Hendrik was a paternalist, a man who understood that to inflict corporal discipline was a part of his role as father of his household, but who tempered his justice with mercy. He was also a frail man who was soon to die. He was ashamed of what he and his son had done when they had severely whipped Mey and the other slaves for a trivial offence. He was appalled at himself for having later lashed Mey over his raw wounds. He had overstepped the bounderies that defined the proper, paternalistic relationship between master and servant. Hendrik Albertus was a man of honor who could admit to have done a wrong. He freed Mey, paid his fines, and compensated the other slaves as acts of contrition. He sought to square himself with his slaves, the law, and, his eye on the near future, with his God. Plausible, but not good enough. Van Niekerk was a paternalist, to be sure, but we know too much else about about the man to leave it at that.

Hendrik would not have felt shame for the punishments he had given his slaves. A sense of shame must come from the outside, from a condemnation of one by one's peers. The first beating, the one which all eight of the slaves received, did not exceed local standards. The farmers of the Cape would have seen nothing remarkable about the laying on of fifteen stripes with a cat o'nine tails, even one made of sheepskin. This was ordinary punishment.[104] The whipping van Niekerk applied to Mey's unhealed wounds may well have been extreme, but was there no way

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[104] See, especially, the contemporaneous case of another Koeberg farmer, Rudolph Cloete, Day Book, Assistant Protector of Slaves, Cape Town, Vol. 5, CAD, SO 5/9.

of atoning short of freeing the man? Van Niekerk could have offered him only the cash compensation, or, perhaps, less work, extra rations, or a pass to visit friends. All of these were common indulgences that masters offered favored slaves. It is also true that Mey and the seven other slaves were a part of the middle group of slaves to whom Hendrik felt no special attachment. They were neither young nor old enough for van Niekerk to have held them in fatherly or sentimental regard. The great failing of this explanation, however, involves the Protector.

Hendrik Albertus and many other Cape slaveholders viewed the Protector with unalloyed hatred. At the time the office was created, the Burgher Senate wrote of the "odious power" that the law, "without any right or reason," gave the Protector to interfere in the masters' private affairs.[103] In 1832, after it had become clear that the new Order in Council would strengthen the slave laws for the second time, the Koeberg farmers wrote their letters of protest. The first spoke of the "cruel and abominable" power given the Protector, and wondered if the government could find "any person... mad enough to make even the slightest attempt to perform" this "monstrous" law. The objection, again, was to the Protector's intrusion into the closed, paternalist world.[104] The second Koeberg letter points the way toward an alternative explanation of Hendrik's response to Mey.

This letter came out of the mass meeting held on van Niekerk's farm. It answered some questions put to the farmers by the editor of the Commercial Advertiser. He had deplored their judgement, and wondered if the letter had not been composed by other hands. They said that the assertion that the letter did not contain their "fixed sentiment" was a lie, the speculation that they had been misled, a "scandalous falsehood." The farmers then turned back to the new law. Their language was violent. They looked forward with "dismay," but also with "calmness" to the time at which the law would come into operation. They knew that the Order's "operation in this Colony [would]... induce them to defend [their] persons and property." It was a step they regretted, but they were "men, and members of a civilized society, who are not totally unacquainted with their rights."[107] At the same time, Christoffel Brand, the editor of the Zuid-Afrikaan, was condemning the Order and writing of "the rights of

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[103] Memorial, Butgher Senate to Acting Governor Maj. Gen. Bourke, RCC, vol. 27, p. 93.

[104] Zuid-Afrikaan, 4 May 1832.

[107] Zuid-Afrikaan, 25 May 1832. Emphasis in original.

Dutch[-speaking] burghers and the length of Boer rifles...."[106] The Governor took this menacing talk seriously enough to issue a ban on public meetings and promise to banish agitators from the colony.[107] The tone of these writings is of men who have been pushed too far. Proud men, honorable men who fear disgrace.

We have noted that Orlando Patterson argues that a "strong sense of honor" is "universal" in the "experience of mastership...." He cites the traits that Genovese attibutes to southern slaveholders as representative of a master's honor: "Strength, graciousness, and gentility... impulsiveness, violence, and unsteadiness... [a] sense of independence and the habit of command...." Patterson contends that this is the way masters historically have seen themselves, though what they actually were is a subject on which he, as he notes drily, "does not feel qualified to comment."[110] Some of these characteristics have been sighted in the slaveholding community at the Cape.

In 1797, the Fiscal, W.S. van Ryneveld, described the colonial slaveowners as "lazy, haughty, and brutal."[111] After surveying the relevant documents, Andre du Toit and Hermann Giliomee find that by the mid eighteenth century, the effects of slavery had begun "to permeate the entire social order." The belief that the proper role of whites was to be part of a slaveholding elite had become entrenched. Manual labor in the service of another was an anathema. They quote a traveller to the Cape as having said that due to slavery, "every ordinary European becomes a gentleman and prefers to be served than to serve...."[112] These quotes deliniate a sense of honor that derives from the power inherent in the possession of a powerless and, so, dishonorable, slave. The violence of the 1832 rhetoric is a function of that power, and that honor, being under threat.

The threat came from the slave laws and, especially, from the Protector. Both directly compromised the power the master could exert over the slave. The Protector not only enforced the law at a distance, in his chambers or in court, but, after August 1832, he could walk uninvited into the midst of the master's household. The master's authority would be seen by all of his slaves to

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[106] Quoted in, Du Toit and Giliomee, eds., Afrikaner Thought, p. 279.

[107] Ibid.

[110] Patterson, slavery and Social Death, p. 11.

[111] Quoted in, Du Toit and Giliomee, Afrikaner Thought, p. 49.

[112] Ibid, p.7.

extend no further than the Protector allowed. Christoffel Brand thought that he saw the consequences of this clearly.

Brand gave a speech to assembled slaveholders on 17 September 1832, in which he asked them whether they "would be silent" and accept the "yoke" that the law placed upon their necks. He wondered if they would allow the Protector, "maliciously and arbitarily," to impose upon them in their own homes. To submit would be to be enslaved: "We are driven into the chains of slavery, and our slaves become free."[113] Brand understood that for his audience there could be no greater dishonor than this, the degradation of slavery and the humiliation of the ennobling of one's slaves.

Brand's speech anticipated, by 150 years, Bertram Wyatt-Brown's claim that "in all societies where [slaveholder's] honor functions, the great distinction is drawn between the autonomy, freedom, and self-sufficiency of those in the body politic, and the dependency, forced submissiveness, and powerlessness of all who are barred from political and social participation--that is, slaves or serfs."[114] How much more dicey the situation must have seemed to the slaveholders at the Cape whose political power was severely circumscribed by the colonial government, but whose slaves had continually been awarded ever greater rights by that same administration. And how then could Hendrik Albertus, a rich and powerful man, a political colleague of Christoffel Brand, have submitted to the Protector? He did not.

Van Niekerk never answered Rogers' summons. He sent his son in his stead, and, later, his son and his agent. But the patriarch of Rondebosjes Heuwel never crossed the Protector's threshold. He did not refuse outright; he claimed to be too ill to travel. His infirmities, however, did not convince the doctor who examined him, or prevent him from whipping Mey. To have answered the summons would have been to accept the Protector as a superior.

Hendrik also stayed a step ahead of Major Rogers. He stalled as long as he could, and when it looked as though Rogers had decided to take the case to court, he himself proposed the settlement. It was not a trial that van Niekerk feared. He would have been tried by his peers, and his chances of an

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[113] Ibid, pp. 281-82.

[114] Bertram Wyatt-Brown, Yankee Saints and Southern Sinners, (Baton Rouge: Louisiana State University Press, 1985), pp. 187-88.

acquittal were good.[118] What bothered him is that the court's summons would not have been easily put off. In a courtroom, he would have faced the Protector as an equal before the law. He would have had the same standing as an officer whose legitimacy he had refused to concede. Rogers seized the initiative only once, when he suggested that van Niekerk compensate the slaves that he had whipped. Hendrik did not negotiate the point, even through his seconds. To have done so would again have been to accept the legitimacy of the Protector's role. Hendrik Albertus offered the Protector his money and his slave, but not his honor.

It was probably easy for Hendrik to be rid of Mey. Mey had sought redress from the very law and office that van Niekerk had spent to much time protesting. For one of his slaves to have resorted to the Protector must have been humiliating. For his slave to have acquired access to power eroded his honor. He would have felt Mey's actions as betrayal and degradation. Hendrik held so much contempt for the slave laws, and such high regard for his honor and paternal authority that it was impossible to take Mey, no longer powerless and dishonorable, back into the household.

Personality and circumstance freed Mey. He was a slave with a sense of justice, and the determination to act upon it. Major Rogers acted strongly in his behalf because Mey was a good slave, and one who had been wronged. Van Niekerk despised the Protector and placed a higher value on his honor than a few Pounds Sterling and a slave. At the end of the day, Hendrik Albertus freed Mey because they were both honorable men.

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[118] See, the Protector for the Eastern Division complaining about the difficulty of securing a conviction in, Report of the Protector, Eastern Division, 14 August 1833, PRO, CO 53/56.