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PROTECTORS OF SLAVES REPORTS.

RETURN to an Address to HIS MAJESTY, dated 15 December 1830;—for

COPY OF ANY REPORTS

WHICH MAY HAVE BEEN RECEIVED

FROM THE PROTECTORS OF SLAVES

IN THE COLONIES OF

Demerara, Berbice, Trinidad, St. Lucia, the Cape of Good Hope and Mauritius,

Since the last similar REPORTS presented to Parliament from each of these Colonies respectively; together with Copies of the Proceedings and Decisions in each case of Complaint between Masters and Slaves, whether the Proceedings may have terminated before the Protector, or may have been referred to Colonial Magistrates, or other Public Officers or Courts.

PART V.—CAPE OF GOOD HOPE.

Colonial Department, }
Downing street, }
3 March 1831. }

HOWICK.

Ordered, by The House of Commons, to be Printed,
10 March 1831.

 SCHEDULE.

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 PROTECTORS OF SLAVES REPORTS.

 PART V.—CAPE OF GOOD HOPE.

N° 1.

EXTRACT of a DESPATCH from Major-General *Bourke* to Mr. Secretary *Huskisson*; dated 25th February 1828.
(With One Enclosure.)

I HAVE the honour to transmit herewith the Report of the late Guardian of Slaves to the 31st December last.

The recommendation of His Majesty's Commissioners of Inquiry having been adopted by His Majesty's Government, but the offices of Registrar and Guardian have been disunited since the 1st January last, there being two Guardians appointed, one for the western and one for the eastern division of the colony, and one Registrar for the whole. No provision has been made for assistant registrars or guardians in the country districts. The duty of the former I have given to the clerks of the peace, in whose offices the registers are now kept, and returns are made from thence to the Registrar's-office in Cape Town. I cannot say with certainty whether the Commissioners of Inquiry contemplated the appointment of assistant guardians; but I can assert that in this colony the protection of the slave in the manner proposed by the Ordinance would have been very incomplete without it. The guardians may attend the Circuit Courts of their respective districts, but it is impossible they can always be present at the District Courts, where slaves are frequently arraigned for petty offences, and where they come to lodge complaints against their masters. I have therefore, to remedy the defect, and at the same time to economize as much as possible the public money, entrusted the duty of assistant guardians to the agents of the Orphan Chamber in the several country districts, at a small increase of salary, the whole expense not exceeding 200*l.* per annum.

The Guardian of the Western Division is in constant attendance at the Supreme Court, and each Guardian will attend the Circuit Courts in his respective division. Each has an office, the one in Cape Town, the other in Graham's Town, where complaints or applications from slaves are received.

As the former system had been found to work well, I could have wished it had been allowed to continue; as it is, I have made those arrangements which appeared to me most likely to render the later system efficient, and which will, I hope, meet your approbation.

(signed) *Richard Bourke.*

REPORT of Proceedings of the Registrar and Guardian of Slaves at the Cape of Good Hope; from the 25th day of June to the 31st December 1827.

Sir,

Cape of Good Hope, 31st December 1827.

IN compliance with the orders under which I act, I beg leave herewith to submit to your Honour a statement of my proceedings from the 25th June last to this date; in which is comprised a continuation, from the date of my last Report, of the cases which at that time were not concluded, as well as those which have been brought forward since that period; to which I also have the honour to annex the various reports and returns which I am directed to furnish, as also those which have been forwarded to me from my assistants in the country districts.

Report from
Protector of Slaves.

In Appendix, Letter (A.) will be found notes of the proceedings for and against slaves, in the several courts of law in Cape Town, and Appendix, Letter (B.) is a summary of the complaints and claims to freedom, including also all that were not disposed of up to the close of my last Report.

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I have still experienced serious inconvenience from the want of a translator, as well as from my not being enabled to avail myself of the services of a professional person; and the translating in my own office for the guardian's business, with so small an establishment, has necessitated the temporary omission of a portion of the registrar branch, whilst much anxiety and delay has been the consequence of my not having authority to pay a law adviser. These drawbacks have tended to create also a constant precipitation in my registry branch, which is not only extremely inconvenient, but wholly inconsistent with the nicety, absolutely requisite, in the correct entry of all acts of registry, where even the slightest omission or oversight may be highly detrimental to the interests of the slave proprietors, and where neglect or error cannot be easily hereafter rectified.

The complaints and claims to freedom, and all other applications, from the 1st of August 1826 to the present period, are 117 in number, of which 44 have been made within the last half year; of these last, 18 are terminated or disposed of, eight have been laid before the Court of Justice, and three cannot be proceeded in for want of proof.

I have great satisfaction in referring to the list of complaints made to me by slaves against their masters during this half year, as it will be found that there are none of a serious nature, neither do the reports from the country districts furnish any of a flagrant description, and it will be seen by reference to Appendix, Letter (C.) No. 2. (Report for August, No. 6.) that the complaint of Lea against her master J. Mans, which was noticed in the last Report, was found after a long inquiry to be false and frivolous.

In one instance, however, a person named H. Hitzeroth was convicted of having ill-treated the slave Juny of his employer Adriaan Vermaak, jun. son, and condemned to pay a fine of 10*l.* sterling, with the costs of suit; and I have the further pleasure of being able to state that the complaints of the masters against slaves are equally divested of any acts of atrocity, if I except the case of Jonas, of G. F. Cloete, who was found guilty of having threatened to stab his master with a knife, and was sentenced to be scourged, and to work twelve months in irons, and was afterwards further condemned to be flogged in prison for having used abusive language to the heemraden whilst in the execution of their duty. See No. 75 & 78, Appendix, Letter (C.) No. 5.

Thus it may be inferred that the establishment of guardians for the slaves has had a most beneficial influence, as well as relates to the protection of the slaves, as with respect also to their conduct towards their owners, and notwithstanding the hostility at first shown by the inhabitants to this institution, there are, I believe, but few who are not now convinced of its general utility.

The slaves having confidence in the guardian, are for the most part easily persuaded by him to do what is right, and are satisfied with his decisions; they have also the benefit of his advice when they come to make complaints of any imagined acts of injustice towards them, and which are often founded in misconception; and as the true state of their case is fully laid open to them, and all the circumstances for and against them carefully and clearly explained, they are generally induced to return contentedly to the service of their masters.

From the peculiar duty of the guardian, the complainants, as well as their witnesses, feel assured 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 refractory slaves to a sense of sorrow, and promises of future amendment, without the necessity of punishment; and from his having been also the channel of reconciling misunderstandings between slaves and their owners, which a want of confidence in former times would have compelled a recourse to severer measures.

Appendix, Letter (C.) being the copies of the reports of the assistant guardians, will show that to the diligence and spirit with which they have acted up to their orders may mainly be attributed that so few cases of ill-usage have occurred in the country districts; and I avail myself of this opportunity to state that I have every reason to be convinced that the duties of the assistant guardians have been performed in an upright manner, as creditable to their own characters as it has been highly satisfactory to me.

It may be necessary that I should in this place make some reference to the report of the assistant guardian at Stellenbosch, respecting the case of Christiaan, registered as the property of the late J. P. Watney, (see No. 2, Appendix, Letter (C.) No. 7.) and who claimed his freedom on the ground of having been placed with Mr. Watney as a prize apprentice; but I have not taken any further steps therein, as from his own statement it appears that he arrived here during the government of Sir David Baird, that is, between the 10th of January 1806 and the 17th of January 1807, and consequently before the operation of the Abolition Act, and before the arrival of any prize negroes; and I have ascertained that General Baird allowed part of the cargoes of two slave ships to be disposed of by public sale, so that there can be little doubt of Christiaan's having arrived in one of those vessels; and in addition to this circumstance, the evidence of the persons who have been heard in his behalf does not offer any proof upon which I should have felt myself justified in submitting the case to the consideration of the court of justice.

No baptisms have been reported to me to have taken place since the last Report, nor have any slave marriages been solemnized, and this circumstance may be accounted for by the consideration that a very limited number of slaves are of the Christian faith; many of them, and particularly those from the coast of Mosambique and its neighbourhood, being without any religion, but the greater proportion of them professing the Mahomedan belief, and living in a state of tolerated concubinage.

The manumissions since my last Report, (see Appendix, Letter (D.) No. 1.) are, in Cape Town and district, 137 in number, and 15 have been emancipated in the country districts (Letter (D.) No. 2.) making a total since the 1st of August 1826, (a period of only 17 months) of 354; of these, 71 were slaves attached to the government establishments of the Slave Lodge and Grote Post Farm; and adding the number erased from the registers during the same period, by sentences of the Court of Justice, being 14, the total number of emancipations amount to 368.

There is also a further pleasing feature in this Return, which will be found under date the 9th of July 1827, when 19 slaves were manumitted by will of the late widow Weigt, who also left 52,000 guilders, or 1,300*l.* sterling, for their support.

In Appendix, Letter (D.) No. 3, will be found the names of the slaves cancelled from the registers from the 25th June to this date; in this Return are comprised the slaves of the late Gilles du Tugnot, whose case was noticed by the Guardian in Appendix, Letter (B.) No. 76, but it was not till after that Report was closed that he received sufficient information to justify him in cancelling their registry.

Only two applications have been made to me for the recovery of any debts due to a slave, the particulars of which will be found in Appendix, Letter (B.) Nos. 82 & 108: and no sums of money have been lodged by slaves in the savings banks.

Appendix, Letter (E.) will show the grounds upon which I made application to the Court of Justice for its sanction to the transfer of a child separate from its mother, although it had not fully attained the age of 10 years, and in the propriety of which the Court acquiesced.

As my duties as Guardian of the Slaves will close with this Report, on account of my appointment to another branch of the civil service, I consider it due from me to state, that in all my communications and transactions with the Worshipful Court of Justice, I have met with every attention and support; I have also to acknowledge a like cordiality in the Court of Landrost, and of the Permanent Commissioner; a cheerful co-operation on the part of the police department, and every facility given me in my researches at the different public offices where the duties of my situation occasionally called me; and I should be guilty of an unpardonable act of injustice were I not to bring to notice that the persons composing my office have at all times given me their unqualified support and assistance, and that much credit is due to them for their perseverance in the performance of their duties, with so small an establishment, and under circumstances of great privation from relaxation.

I now lay down my office in the consciousness of having done my duty in an upright and honest manner, and to the best of my ability, neither having suffered any consideration to deter me from following up the rightful claim of the slave, nor having to my knowledge advocated a bad cause to the prejudice of the proprietor; and if I am disturbed by any feeling of regret on this subject, it arises from my not having felt confident in my own abilities, and my uneasiness lest the laborious duties of my departments should fall into arrear from the insufficiency of my means to meet the pressure; but whatever may have been deficient in these respects, I hope has been made up by a faithful discharge of the trust reposed in me, in the fair and honourable construction of that sense, unshackled by fear or partiality, and unmoved by any other impulse but that of the public good.

I am most conscientiously of opinion that the aid and interference of a guardian for the slaves, judiciously applied, must prove of infinite advantage both to the slaves and slaveholders, and this will be the more and more apparent as time develops its advantages, and the resentment consequent on the introduction of any novel measure, which appears to make inroad on the property of the colonists, wears away. Of the colonists generally, I am bound to declare, that it would be far from the truth to believe that they are cruel or hard masters, and I most solemnly assert that I have not found in them that tendency to the ill-treatment of their slaves; which it is but too common in Europe to believe must prevail wherever slavery exists; but, on the contrary, I have witnessed many acts of philanthropy in owners towards their slaves, and am convinced that a considerable feeling of humanity towards their slaves is the predominant principle in the minds of the inhabitants at large.

Ill-behaved slaves, of which it must be supposed there are, from their unhappy state of ignorance, not a few, are the greatest possible torment to their owners, and particularly this description of female slaves, for whom there is now no punishment but a slight correction, which on some of those masculine Mosambique women, in many instances stouter and more hardy than European men, amounts to no punishment, and only increases their ill-behaviour; and with the exception of a short confinement upon bread and water, there is now no punishment for any crime less than theft, whilst in England our countrywomen, many of whom are of delicate frames and constitutions, are, for corresponding offences, condemned to hard labour, the tread-mill, and other severe and degrading penalties; and I am of opinion that the present race of slaves here are far better off than millions of the lower orders in Great Britain and other parts of Europe.

In the instance of the negro apprentices who have been recently liberated here, we have evidence how few are willing to struggle for the means of maintenance. Whilst young and able they will not work, and when old age and sickness come upon them they are reduced to the utmost wretchedness, and many of them have been found dead, and have been buried by the public. So would it be in a greater ratio were numerous emancipations to take place in a hurried manner, without the minds of the manumitted being gradually prepared for so great a change. And not only would this colony be overrun with distress and pauperism, but it may justly be apprehended that very frightful consequences would follow.

Slaves depend for support in their old age upon their masters, and have far more comforts and more care bestowed upon them than any free paupers of colour will or can meet with.

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Some persons have no other property whatever but their slaves ; their interest, therefore, if not their inclination, makes them anxious for their well-doing, as it is often by the money arising from the hire of the slaves that they as well as the owners themselves are clothed and supported. There frequently exists between the owners and their slaves, particularly in the old families, a degree of familiarity and even friendship which never could have been generated by ill-treatment. Many of the present owners and their slaves have been nourished at the same breast, and as children have been in an almost fraternal intercourse, and it is by no means uncommon to see the slave children fondled on the knees of the owners, and associating with the family upon the footing of equals. Several now ancient and faithful slaves who have been so brought up during their infancy, have lived to become almost arbitrary in their master's household, enjoying comparatively all the comforts that their owners themselves can command.

As a most sincere well-wisher to the cause of gradual emancipation, I hope to be excused in venturing to take the liberty to add, that I consider that such desirable object would be greatly assisted and accelerated by the imposing a heavy tax upon the registry of the births of all male children as slaves, and making the tax double for the registry of births of female slaves. I am convinced, if this were the case, many slave-holders would omit to register births ; the children would grow up in the families as free servants, and the law would provide that on their attaining a proper age they should have a right to absolute freedom from all servitude. The law could also protect them in their more tender years, and assume a right to their disposal, as apprentices, in case of their being ill-treated. This arrangement would not put the Government to any expense ; on the contrary, its revenue would be increased by the taxes which would be received from those who determined to register slave births.

I now respectfully conclude, earnestly hoping that the humane cause in which I have been a humble agent may prosper, and ultimately release from slavery and degradation so numerous a body of our fellow-creatures ; and if any exertion, act or suggestion of mine shall have tended to this end, or to the comforts of their situation, I shall be more than repaid for the many anxieties I have felt, and look back to the period I have passed in this colony as their Protector as the most satisfactory of my life.

I have the honour to be, Sir, your most obedient humble servant,

G. J. Rogers, Registrar and Guardian of Slaves.

His Honor Major General Bourke, c. b.
Lieut.-Governor, &c. &c. &c.

I, George Jackson Rogers, do swear that the foregoing Report, and Documents thereto annexed, contain a true and accurate statement of the several matters and things referred to, to the best of my knowledge and belief.

G. J. Rogers,
Registrar and Guardian of Slaves.

Sworn before me, at Cape Town, Cape of Good Hope,
this 3d day of January 1828.

Richard Bourke, Lieut.-Governor.

N° 2.

DESPATCH from Major General *Bourke* to Mr. Secretary *Huskisson*, &c. &c. &c.
(With Two Enclosures.)

Sir

Government House, Cape Town, 25th August 1828.

IN conformity with the 41st Section of the Ordinance for improving the condition of the Slaves at the Cape of Good Hope, I have the honour herewith to transmit the half-yearly Reports of the Guardians of Slaves in the Eastern and Western Divisions of this Colony to the 30th day of June last.

I have the honour to be; &c. &c. &c.

(signed) *Richard Bourke*.

Enclosure, No. 1.

REPORT of the Guardian of Slaves of the Eastern Division, to 30th June 1828.

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Sir,

Graham's Town, 24th June 1828.

Report from
Protector of Slaves.

IN submitting to your Honour the following Report upon the proceedings in my department for the last six months, and upon the general condition of the slave population in the eastern province of this colony, it may be necessary to premise that, from the short time which has elapsed since my appointment, my attention has been more directed to acquiring just notions of the actual state of this class of people, and of their fitness for the reception of the advantages and improvements which the 19th Ordinance holds out to them, than to the minuter details enumerated in the 41st Article of the Ordinance, as forming the proper subject of my Report; those details, however, have not been overlooked, and all information regarding them which it has been in my power to procure will be found comprised in the annexed tabular Return. The great extent of this province has, as your Honour is already aware, prevented me as yet from attending the Court of Circuit in the district of George. I have however visited all the other districts within my province, and as opportunity may serve I hope to be able to submit hereafter a fuller view of the state of slavery in every part of the eastern portion of the colony. The principal circumstance which distinguishes the state of the slave in this province from that class in other colonies appears to be, that here he is employed as a herdsman or house servant, where little profit accrues to the owner, and moderate labour devolves upon the slave; while elsewhere, where the employment is more profitable, and the population more condensed, greater exertion is required and enforced for the interest of the master, and greater means of acquiring wealth are within the reach of the industrious slave; hence it follows, while the general disposition of the owner here coincides with his interest in rendering the condition of slavery more endurable, it has too great a tendency to render it also more permanent, the scattered state of the population depriving the slave of the means of instruction, while the nature of his employment holds out little prospect of his ever accumulating the means of manumission; this comparative view will probably in some measure account for the small progress hitherto made in some of the objects of the 19th Ordinance, in particular saving banks and manumissions; for, with regard to marriage, baptism and instruction, I am by no means of opinion that the obstacles I have mentioned can satisfactorily account for the small advancement hitherto made.

Upon each of these heads I will submit a few remarks, in the order laid down in 41st Article of the Ordinance.

1st. The Table will show the manner in which prosecutions both for and against slaves have been conducted, together with the extent of punishment awarded either in the circuit courts, where I attended myself, or in the inferior courts, attended by my assistants. It is satisfactory to observe that only nine slaves have complained of ill-treatment; that of these four complaints were found to be groundless; and that only two slaves have been criminally prosecuted.

2d. No applications for licenses to marry have hitherto been received, nor does it appear that any marriages have taken place. Upon this subject I have generally observed an indisposition to encourage marriage on the part of the masters, and an ignorance of the provisions of the Ordinance on the part of the slaves. As these obstacles may be gradually removed by giving additional publicity to the law on the subject, they are not to be considered as by any means insurmountable.

3d. Saving banks. The general remarks above offered, together with the circumstance of slave property consisting generally in cattle, will account for nothing having been gained in this respect. In the towns, particularly Graaf Reinet, where there is considerable opulence as well as intelligence, it is to be hoped that something in this way will succeed.

4th. Manumissions. Only four cases have occurred, and those in Albany, in the year 1827. No instance of a slave possessing property nearly adequate to the purchase of his freedom has come to my knowledge.

With regard to baptisms it will be observed that only two cases have occurred. The importance of this rite, as a means of raising the character of the slave (independent of the instruction which ought to attend it,) is secondary to no institution within reach of the slave population; this is strongly and generally evinced by the anxiety of the slaves to be admitted to what they are taught to consider as a valuable and exclusive privilege, and by the reluctance of the owners to grant what is regarded by both parties as so great an advantage. Another difficulty is urged, arising from the want of competent sponsors, or of such means of instruction as would qualify the adults for baptism without sponsors, but it appears probable that if the half-yearly visits for this purpose which the clergy are enjoined to make were punctually and after due notice performed, and were the clergymen to use the influence they possess to impress upon the masters the moral obligations they are under to instruct and improve their slaves, little difficulty would remain from this cause. One instance occurred at Beaufort of an anxiety on the part of a master to have four slave children baptized, and in which the owner and his wife had offered to stand as sponsors; but in this case the difficulty arose in another quarter, the clergyman at Beaufort required (with what propriety I am not prepared to say) to have four sponsors. But in such rare cases as the owner requesting the performance of this rite, I should conceive that every proper facility should be given by the clergy. I also conceive, were the obligation to have the children of Christian slaves baptized extended where practicable to the children of all slaves, not being Mahomedans, and were the respective clergymen instructed to send half-yearly reports of what is effected in the baptism and instruction of slaves, that no unreasonable burden would be

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thrown upon either the owners or the clergy, and that the foundation of much improvement would thus be laid. And where slaves reside near enough to the free schools in the villages to avail themselves of the means of instruction thus afforded, there seems to be no reason why it should not be made obligatory upon the schoolmasters to report periodically to the clergyman the names of such children as are qualified to be baptized without sponsors, and upon the clergyman, after satisfying himself of the correctness of that report, to baptize such instructed children.

With regard to education, the same remarks apply which have been offered upon the baptism of slaves. The great distance of the majority of the population from the towns put public instruction, except in the way of periodical visits and examinations by the clergy, out of the question for the present; but it must be admitted by the owners of such slaves, that they possess for their slaves the same means of private instruction which they have for their own children, and in reliance upon which means their children are baptized by the clergy.

It is to be lamented that the moral obligation, which is sufficient where their offspring is concerned, is inadequate to induce them to attend to the religious instruction of a class still more dependent upon them; but as it does appear in general to be so, it is much to be wished that it may hereafter be declared a legal as well as a moral duty, and be enforced as such.

While I venture to suggest the expediency of any alteration in the law regarding slavery, it is satisfactory to reflect that the necessity of such change is likely daily to diminish, from the extension of knowledge and liberality of feeling with regard to slavery, which from various and obvious causes are gradually disseminating themselves in this province.

I have the honour to be, Sir, your obedient servant,

Geo. Pigot,

Guardian of Slaves of the Eastern Province
of the Cape of Good Hope.

His Honour Major General Bourke, c. v.
Lieutenant Governor, &c. &c. &c.

I, George Pigot, do swear that the above Report, and Documents thereunto annexed, contain a true and accurate statement of the several matters and things therein referred to, to the best of my knowledge and belief.

Geo. Pigot,

Guardian of Slaves for the Eastern Province
of the Cape of Good Hope.

Sworn before me, at Cape of Good Hope, this 8th day of August 1828.

M. D. Thoorin,

Resident Magistrate, Graham's Town.

Enclosure, No. 2.

REPORT of the Guardian of Slaves of the Western Division, to 25th June 1828.

Sir,

Guardian of Slaves' Office, Cape Town, 30th June 1828.

PURSUANT to the 41st Section of Ordinance, No. 19, I now beg leave to transmit to your Honour the various Returns of my proceedings which I am therein directed to make, together with a Return of Manumissions forwarded me by the Registrar; and also Copies of the several Reports of the proceedings of the respective Assistant Guardians in the Western Division of this Colony, for as far as they have come to hand.

I am extremely sorry to be under the necessity of observing, that it is totally impossible for me to carry on the duties of my office with efficacy under its present establishment, without clerk, messenger or assistance of any description. Under such circumstances it is but too obvious that I must experience much inconvenience and serious impediments, productive of great delay, and oftentimes prejudicial consequences to the interests of that unfortunate class of my fellow-creatures whose rights I have been appointed to guard. Every application for information at the Registry, at the Orphan Chamber, office of the Supreme Court, that of the High Sheriff, Sequestrator or elsewhere, and in short all those petty duties which cannot be so conveniently done in writing, I am obliged to perform in person, except in instances when I cannot possibly absent myself from my office, and then I am compelled to resort to correspondence, frequently on trifling though necessary details, which could be equally well explained had I a proper person through whom I could communicate. Hence arise a most unnecessary occupation of my time, and consequent procrastination of the current business of the office, highly detrimental to the more important duties of my administration. The situation of guardian of slaves is, from its very nature, sufficiently odious, disagreeable and troublesome, without having to encounter the obstacles and difficulties that I labour under; they would be sensibly felt by any person, however active, holding my office, but they press especially heavy on me with my sight so distressingly impaired, through an almost incessant use of my pen for upwards of 20 years. I shall however for the present waive this unpleasant topic, and commence upon the details of my proceedings from the time I entered upon office to the 25th instant inclusive.

In Appendix (A.) will be found the several actions against and in behalf of slaves, which have been carried on in the different courts of law in my division, where I attended in person. It is extremely gratifying to remark the smallness of the number of those against slaves by their masters, and *vice versa*; even in the district of Stellenbosch, the most populous and troublesome

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troublesome one in the whole colony, the number of slave cases has diminished more than one third since the last Return; that contained 36, while only 21 appear in the present Report, which will be found in Appendix (C.) No. 1.

It is still more satisfactory to observe that only one case of a serious nature has occurred since I have been in office, namely, the case of J. de Villiers, charged with the murder of one of his father's slaves, which, for as far as it was proceeded in, is detailed in Appendix (A.) No. 66; but I am happy to say, that subsequent to the commitment of the prisoner circumstances appeared, which, when laid before the court at Worcester, where the prisoner was arraigned, induced the judge to liberate him on bail, as the trial could not be prosecuted there, but was removed to the Supreme Court, and before which it is to take place on the 1st of July next.

Besides the cases contained in Appendix (A.) there were two others tried in the Supreme Court during the last criminal sessions, but as no notice thereof was given to me pursuant to Section 7 of the Ordinance 19, I was completely ignorant on the subject, and was not present; however I have since obtained from the attorney-general's office the particulars of these two cases, which will be found in Appendix, Letter (D).

Appendix (B.) contains all the complaints of or in behalf of slaves which were unsettled when I entered upon office, with the further steps that I have since taken therein. It also contains those made to me during my administration, with a summary detail of their nature, the proceedings held, and the result for as far as they have been disposed of.

These cases commence at No. 118, and are 24 in number of which six have been settled or brought to a conclusion, nine are still under investigation, and nine I have either dismissed on proving totally groundless on inquiry, or declined bringing forward for want of sufficient proof. Of this last description two have particularly attracted my notice, and to which I beg leave to call your Honour's attention, I allude to Nos. 131 and 137, in Appendix (B.) The applications for freedom made by both those slaves had the same ground, cohabitation with their masters, both married men.

The serious, and perhaps irreparable consequences, which must inevitably result to families and their connexions, otherwise living in peace and harmony, from a case of this nature coming before a court of law, I consider of too great weight and importance, when placed in the scale against the bare assertion of the other party, so vitally interested in the result, to justify my bringing forward such a claim, however strongly urged, when unsupported by any proof; and I hope that in my refusal to interfere in these two cases, as to the question of freedom on the alleged ground, that your Honour will consider that I have acted conscientiously, and not been wanting in that duty which I owe to those whose interests are committed to my charge. I trust it will not be deemed irrelevant to the present subject, when I take this opportunity to observe, that in my opinion a claim for freedom upon this plea should never be hastily brought forward, unless corroborated by strong and highly probable evidence; for should the claimant fail to establish her case, the defendant is nevertheless put to great expense, exposed to the public scandal of the day, to the animadversion of his relations and friends, to be considered culpable by all, and perhaps to even still more unhappy consequences.

There is no part of my duty which I have found requires more circumspection, or in which I have experienced more difficulty, than in my inquiries into the claims of freedom preferred on the ground of the complainant having arrived here as a prize negro. In this respect I have met with the same obstacles and the same contrariety of information that my predecessor has complained of; in some instances, where the claim has been already investigated and decided against the slave, it is surprising to see the address with which they conceal such previous inquiry, and the plausible reasons they allege when asked for not having brought forward their complaints at an earlier period. No. 128 in Appendix (B.) affords a striking instance of this. However when the complainant is not able to bring forward any proof or probable circumstances in his favour, I consider myself bound to attach weight to the owner's affidavit, or such documents as he may be able to produce, especially when the master is of a respectable and in every respect unexceptionable character. Under this impression I was in some measure guided in the proceedings I adopted in cases No. 114 and 118 in Appendix (B.) But I am inclined to think that many of those obscure cases will not now occur, because almost all those slaves who had the smallest idea of having a right to freedom preferred their claims early after the promulgation of Ordinance 19, and the decrease of such applications justifies this opinion.

Another source of groundless complaints is in some few instances to be found in the masters themselves, who, when having slaves of extremely bad conduct, and for whom they paid a high price, readily enter into their views, (on the slightest ground), of claiming their freedom, and therefore encourage them so to do, in the hope, should they succeed, of being able to recover the purchase-money from the person of whom they bought them. I have every reason to believe this remark applicable to the case of May, No. 121, in Appendix (B.) Groundless claims for freedom are likewise frequently preferred by evil disposed slaves and habitual deserters, who, when taken up or committed to prison for any offence, immediately say they are free; because they know that then they will be sent to the Guardian with their complaints, and thereby escape trial and punishment, should they deserve it, at least for so long as their claim may be under investigation. Of this fact three examples will be found in Appendix (B.) cases Nos. 124, 127 and 128.

One new complaint only (No. 123) of property being withheld from a slave, has been brought before me, but it is still pending, as well as No. 108, commenced by my predecessor;

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sor; the present state of these two cases will be found under their respective numbers in Appendix (B.)

Neither marriages nor baptisms have been reported to me since my appointment, nor have any deposits been made in the Saving Banks.

Appendix (C.) contains the Reports of the proceedings of the Assistant Guardians in the country districts, as far as they have been received.

Appendix, Letter (E.) is a copy of the Return, sent in to me by the Registrar, of the manumissions made in his office since the date of his last Report; one only of which has been effected through my interference, and which will be found under No. 120, Appendix (B.)

Appendix, Letter (F.) contains the particulars of the only application that has been made to me for legal permission to sell a slave woman without her children. I have found myself justified in laying this case before the Supreme Court, and recommending a compliance with the application, but no decision, that I am aware of, has as yet been given. This perhaps is the most proper place to observe, that there appears to be some hesitation on the part of the Supreme Court as to the manner in which the claims of slaves are to be brought forward in future.

The documents and inquiries collected by my predecessor, in cases No. 36, 45, 46, 47, 65, 71, 73, 89, 97, 99 and 102, I transmitted shortly after my entrance on office to that court, but which I have been indirectly informed will not entertain them in their present form, and yet none of these cases have been returned to me, nor have I received any written communication on the subject, either from the Court or Registrar; however, as soon as my other duties will admit, I shall request a conference with the Chief Justice, in order to learn the arrangements that are required, and to receive the necessary instructions for my guidance as Guardian of Slaves, that no delay may in future occur in such cases as are to be brought to the cognizance of the Supreme Court.

Having now, conformably to the orders under which I act, detailed my proceedings as Guardian of Slaves since the commencement of my administration, I have further to acquaint your Honor, that at the last sessions of the Circuit Courts held in the western division of the colony, I, on the suggestion and recommendation of the Judge, acted and assisted, to the best of my ability, as counsel for different Hottentots who were tried for various offences, and of the details of those proceedings I have made a separate Return, which is conained in Appendix, Letter (G.) But as I have not any authority from Government to officiate as the Guardian or Advocate of Hottentots, nor receive any allowance or remuneration for such extra duty, although it prolongs my stay on the circuit, and consequently increases my expenses, I beg leave to request that your Honor will be pleased to furnish me with instructions how I am to act in future in this respect.

I cannot conclude without again soliciting your Honor's serious attention to the irksome and critical situation in which I am at present placed,—at the head of an office of a most responsible and troublesome nature, yet standing alone and unassisted; and I can assure your Honor that it has not been without a great and injurious exertion of my sight, and at an expense that my moderate income, connected with my pecuniary circumstances, will not allow of, that I have been at all enabled to carry on the duties of my administration, and to furnish this Report within the time prescribed. However, I trust that your Honor will see the necessity of the difficulties which I now labour under being speedily removed, as otherwise I shall be most assuredly exposed to complaints and animadversions, which, to a man who has always prided himself on a strict and prompt attention to his duty, cannot fail to prove highly annoying and disagreeable, and which even may be attended with the most serious consequences to my future interests.

I have the honour to be, with the greatest respect, Sir,

Your Honor's most obedient humble servant,

Henry Murphy, Guardian of Slaves.

To his Honor Major-Gen. R. Bourke, c. b.
Lieutenant Governor, &c. &c.

I, Henry Murphy, do swear that the above Report, and Documents thereunto annexed, contain a true and accurate statement of the several matters and things therein referred to, to the best of my knowledge and belief.

Henry Murphy, Guardian of Slaves.

Sworn before me, at Cape Town, Cape of Good Hope, this 1st day of July 1828.

Richard Bourke, Lieut.-Governor.

N^o 3.

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DESPATCH from Lieutenant General Sir *G. Lowry Cole* to Secretary
 Sir *George Murray*, &c. &c. &c.

(With Two Enclosures.)

Sir, Government House, Cape Town, 4th February 1829.

IN compliance with the 13th Section of the Ordinance in Council of the 19th June 1826 for improving the condition of the Slaves at the Cape of Good Hope, I have the honour herewith to transmit the half yearly Reports of the Guardians of Slaves for the Eastern and Western Divisions of this Colony to the 24th December last.

I have the honour to be, &c. &c. &c.
 (signed) *G. Lowry Cole.*

Enclosure, No. 1.

REPORT of the Guardian of Slaves for the Eastern Division, to 25th December 1828.

Sir, Graham's Town, 31st December 1828.

Report from
 Protector of Slaves.

IN transmitting to your Excellency the enclosed lists of prosecutions before the different courts in this province, I do not perceive that any alteration in the situation or prospects of the slave population has taken place since my last Report, so as to call for additional remarks of a general nature.

The observations of the Secretary of State upon the former Reports, conveyed to me through the Colonial Secretary to Government, having only reached me by last post, and all the returns from the assistant guardians being already in my hands, it will be out of my power to furnish with this Report the full information upon every case which is required; I have, however, upon my last circuit, made such arrangements as will henceforth insure more ample details upon the points specified.

The 7th Section of the 19th Ordinance, which directs notice of certain suits in which slaves are concerned to be given to the guardian or his assistants, has been with considerable advantage extended, by directions of the Colonial Government, to minor complaints, yet there are several points connected with this provision to which I would beg to solicit your Excellency's attention.

1st, Notice of prosecutions is now in all cases served upon the assistant guardian, but it is presumed that, if complaints of ill-treatment were in the first instance lodged with the assistant guardian, he might be thereby better enabled either to procure the necessary evidences, or to advise withdrawing the complaint in cases where his greater experience or better judgment should deem it expedient, still leaving it open to the master, should he feel it necessary, to bring forward his counter charge. This is the more necessary, as in some instances the clerk of the peace has declined withdrawing the charge, although abandoned by the slave and the guardian as either premature or incapable of proof.

2d, It would be desirable that the several gaolers should be directed to give notice to the assistant guardians of every commitment of a slave within 24 hours.

3d, Many complaints which do not appear in the returns, being of a civil nature, and nevertheless made by slaves at the several towns, and in general not prosecuted for the want of the means of paying the customary costs; the property of the slaves generally consists in cattle, which they have, from their situation, great difficulty in turning into money; those who purchase from them do not fail to take advantage of the difficulties to be overcome where a slave is plaintiff, and there is hence some scope for injustice, which I should presume would be best overcome were it practicable to authorize the clerks of the magistrates courts to issue the process, *pro deo*. in such civil cases as might be brought forward with the sanction of the assistant guardians, but allowing full costs where legally awarded against the defendant.

Your Excellency will observe from the table, that returns have been received of criminal cases, in which slaves were concerned either as complainants or accused in this province during the last six months, of which only four have been before the Circuit Court. In one of them, I feel it my duty to lay before your Excellency the evidence produced upon the preparatory examination, which it seems was sufficient to convince the magistrate that a crime beyond his power to punish had been committed, but not to satisfy the jury by whom the case was tried: whether the jury were properly actuated by their knowledge of the general humane character of the persons accused, or of any thing beyond the evidence as to the slave, I will not presume to say, but I must state that the evidence as in the examination was produced, that it was not materially affected by the evidence on the defence, and that the verdict of acquittal appeared to be quite unexpected by all in court.

The return of baptisms is confined to five, being principally the same referred to in my last Report, the clergyman having waved his objection to the number of sponsors.

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No cases of manumission by appraisement have yet occurred. A slave has been voluntarily manumitted at Somerset.

In slave marriages no advance has been as yet made in this province. With increase of knowledge the slaves are likely more highly to appreciate marriage; but in the scattered state of the population the diffusion of intelligence proceeds slowly in proportion to the limited means of education in the remote districts, and even near the towns the inhabitants do not by any means fully avail themselves of the opportunities for education offered to them by the free schools.

I have the honour to be, Sir, your obedient servant,

George Pigot,

Guardian of Slaves for the Eastern Province.

His Excellency Lieut.-Gen. Sir G. L. Cole,
Governor of the Colony of the Cape of Good Hope.

I, George Pigot, do swear that the above Report, and Documents thereunto annexed, contain a true and accurate statement of the several matters and things therein referred to, to the best of my knowledge and belief.

George Pigot,

Guardian of Slaves, Eastern Province.

Sworn before me, at Graham's Town, this 31st day of December 1828.

D. M. Thoorin, Resident Magistrate.

Enclosure, No. 2.

REPORT of the Guardian of Slaves for the Western Division, to 24th December 1828.

Sir,

Guardian of Slaves' Office, Cape Town, 29th Dec. 1828.

Despatch answered
29th August 1829.

In compliance with the provisions contained in the 41st Section of Ordinance 19, I have now the honour to lay before your Excellency the several returns of my proceedings from the 25th June last to the 24th instant, accompanied by a Return of Manumissions, as transmitted to me by the Registrar, together with copies of the Reports of the respective Assistant Guardians in the Country Districts of the Western Province of this Colony.

I should have considered it my indispensable duty on the present occasion to have followed the directions contained in the observations of His Majesty's Secretary of State for the Colonies, forwarded to me from the Colonial-office on the 12th instant, on the Report of the Registrar and Guardian of Slaves for the half year ending June 1827; but being without assistance, as your Excellency is aware, the other duties of my office had rendered it imperative on me that I should commence on the materials for my Report at an early period; and having made considerable progress therein previously to the receipt of your Excellency's minute, it would have been totally impracticable for me, situated as I am, to have completed my Report within the time prescribed, had I adopted a new arrangement. I am therefore compelled, for the present, to follow the form hitherto observed, but I shall not fail in future strictly to conform to the plan which His Majesty's Secretary of State has been pleased to direct.

Appendix, Letter (A.) contains the particulars of the different actions which have been brought on behalf of and against slaves before the several courts of law where I have attended in person. Among those for the ill-treatment or illegal punishment of slaves, I am happy to observe that there is but one of a serious nature; I allude to that of Villiers, (No. 66.) who was tried on a charge of the murder of one of his father's slaves.

But although the verdict of the jury will show this case in a more favourable light than its first appearance bore, it is nevertheless to be lamented that any punishment, however slight, had been inflicted on so aged a person labouring under a chronic disease.

As the remarks of His Majesty's Secretary of State on the case of Malatie of Horak seem to be directed to that part of the Guardian's duties detailed in Appendix (A.) I shall here take the liberty to observe, that it affords me the greatest gratification to say, that I have always taken the same view as the Right Honourable Secretary of the Ordinance 19, namely, that one of its main objects is to restrain the intemperate punishment of slaves, and to prevent masters, however great the provocation, from taking the law into their own hands. It will be found on a reference to No. 67, in Appendix (A.) to my *last* Report, that these were the sentiments with which I entered upon office; and Nos. 80, 81 & 99, in Appendix (A.) to *this* Report, will show that the same principle is followed up both by the Judge of Police and the Guardian. It is also with much satisfaction that I observe that on a further reference to this document, it will be seen that no sentence of death has been given either in the Supreme Court or Courts of Circuit against any slave during the last half year, and that only one severe punishment, namely, imprisonment, with hard labour, for life, has been awarded during the same period, to which a slave named Lodewyk was condemned in the Circuit Court at Worcester, on the 13th October last. *Vide* No 90, Appendix (A.)

In Appendix (B.) will be found all the complaints that were unsettled at the date of my last Report, with the further steps that I have been enabled to take therein. These are followed by the applications of slaves which have been made since, accompanied, as before, with a summary detail of the proceedings that I have held in each case, with the result, for as far as I have succeeded in bringing them to a termination. These cases are 33 in number, commencing at 142; of which 19 are still in progress or unsettled; seven I have dismissed

missed or declined interfering in, and seven I have brought to a successful conclusion. Eleven of those 33 cases are applications for the purchase of freedom, under the provisions of the 33d Section of the Ordinance No. 19; in six of which I have succeeded, although the deeds of manumission in two of them (Nos. 162 & 165) have not yet been executed; but in case No. 135, the owner still holds out in refusing to lessen her demand, so that I fear I shall be obliged to have recourse to the interference of the Supreme Court, which is a step that I would wish to avoid as long as there exists a probability of succeeding by other means.

It is not without considerable regret that I see so many of the old cases still appearing as unsettled on this appendix; but it has not been for want of zeal in the cause of humanity and freedom that so little progress seems to have been made in the further investigation of the complaints handed over to me by my predecessor.

The prosecution of the inquiries already commenced in these cases I have experienced much more difficult than in those which have occurred since my appointment; because in the former I have but the information that is to be found in the office books, without the advantage of that personal knowledge and consequent clue which the hearing of the parties themselves, in the first instance, naturally affords.

But I can assure your Excellency that as far as my other more immediately pressing duties have allowed, nothing in my power has been neglected for the interest of the parties concerned. However, I must observe, that almost all the old cases (with the exception of those which were handed over by the late Court of Justice to the Supreme Court, and those that have been returned to me by the latter court, in order to be brought forward in a new form, of which I shall speak presently) appear to me to be nearly hopeless; but I have been unwilling to abandon any one of them, in the expectation that a favourable change in the establishment for my office would enable me to push my inquiries so far, that no apprehension should remain on my mind that any thing that could be done had been neglected or overlooked; and the only further remark that I shall here take the liberty to make to your Excellency, on the hardship of my being left without any assistance, either in or out of court, to sustain alone the burden of, and perform all the duties of my office, is, that I trust I shall be speedily placed in a situation to carry my intentions into effect.

I now revert to the cases in which the papers were handed over by the late Court of Justice to the Supreme Court, and to those which have been returned to me, in order to be brought forward in a new form.

With respect to the former, having moved the court that some steps should be taken therein, the chief justice has directed the proper officer to examine the papers, and to return to the guardian all those in which the proceedings have not been closed, for the same purpose as the latter mentioned; leaving it solely to the discretion of the guardian to withhold any of either description in which he should feel satisfied that the claim was not tenable.

Having on that occasion observed to the court that it would be totally impracticable for me to prosecute such actions without some legal assistance, their Lordships were pleased to say that they considered the Guardian, from what they had already experienced, fully competent to act as counsel in all slaves cases which it might be necessary to bring forward; but that they fully admitted the absolute necessity of the Guardian having the assistance of a solicitor in every case: that the court were convinced it could never be the intention of His Majesty's Government to appoint a Guardian of Slaves, and leave him without the means of effectually performing his duty; and that if I would make application in the proper quarter for such assistance, their Lordships would recommend and give every support in their power to the measure. It is therefore my intention to take an early opportunity of addressing your Excellency on this subject.

This will be perhaps the most proper place to advert to the remark of His Majesty's Secretary of State for the Colonies, contained in your Excellency's above-mentioned minute. —“That it seems to be assumed as a settled principle of law, that a person held in slavery, but claiming to be free, must sustain the whole burden of proving the validity of the asserted right of freedom.” That this was the principle formerly assumed, I have no hesitation to admit; in fact, I know from my intimate connection with, and as having been private secretary to the late Mr. Van Ryneveld, when civil magistrate and chief justice, that it was formerly considered to be the law in this colony, “that the possession of a slave gave a right of property until the contrary should be proved.”

But I am not aware that this principle has been followed latterly, or by my predecessor; it certainly has not by me; on the contrary, when the slave who is alleged to have come into this colony as a free person, as well as the original colonial proprietor, are still alive, I have called upon the owner to prove his or her title by documents or otherwise, which will be seen to have been the line I adopted in the case of Dela, No. 97 in Appendix (B.) But I am afraid that every case will not admit of this mode of proceeding. The mothers and grandmothers of many of the slaves in this colony, especially in Cape Town, were brought here in the old Dutch Company's time by their masters or mistresses on their return to Holland from Batavia, and other parts of India. Those slaves were sometimes given away gratuitously to different persons, and sometimes to the inhabitants with whom the owners lodged, as a reimbursement for the expenses of their sojourn; but no regular transfer was ever thought of in those days, and seldom even a receipt, or any other document, demanded or considered necessary.

This is a fact well known to several of the old inhabitants still living, and it is universally

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sally admitted by every one anywise acquainted with the former customs of the colony. Many of the children and grandchildren of those slaves are consequently still in the same state, having been registered as slaves on the establishment of the slave registry office in 1816, upon no other authority than possession given by a clause in a will or codicil, an inventory of an estate, or a vendue note, without the present proprietor holding the shadow of a document to prove the original title by which his ancestor received and held the mother or grandmother of these slaves in bondage.

And I here most respectfully beg leave to submit, whether it would not be a hardship, under those circumstances, when a slave (after allowing his or her claim to freedom to remain dormant for 20 or 30 years, and sometimes longer) comes forward with a complaint of this nature, unsupported by any positive or even presumptive evidence, that such an owner should be exposed to the consequences of an action in a court of law, in which should he even come off triumphant, he nevertheless would have had to encounter much trouble and vexation, and to incur considerable expense, without the most distant probability of reimbursement. For the case of the slave is prosecuted in *forma pauperis*, but the owner must depend his rights at his own cost, which is seldom trifling. In the case of William (No. 77), the master was triumphant, and yet it cost him nearly 100 *l.* besides the loss of the slave's services for 18 months. And instances are not wanting of slaves preferring a claim to freedom with no other object than thereby to obtain unrestrained liberty to follow their own idle inclinations during the investigation. So that I feel confident of obtaining your Excellency's approbation, when I forbear to plunge a master into an expensive law-suit until something approaching to proof of the enregisterment having been made in error or injustice be produced on the part of the slave.

I have dwelt so long on this point in the hope that both His Majesty's Secretary of State and your Excellency will be convinced that neither inclination nor zeal has been or shall ever be wanting on my part to prosecute with every energy that I am capable of the claims of the unfortunate portion of my fellow-creatures committed to my charge.

Appendix, Letter (C.) is composed of the Reports of the Assistant Guardians in the several country districts of the Western Province for the last half year; together with those of the Assistants at Worcester and Clan William for the half year ending in June, which had not come to hand when I sent in my last Report.

I have not received any Reports of marriages or baptisms during the last half year; nor of any deposits having been made in saving banks.

Appendix, Letter (D.) is a copy of the return, transmitted to my office by the Registrar, of the manumissions made since the date of his last Report, in effecting four of which I am happy to say the Guardian has been instrumental. The particulars of these will be found in Appendix (B.) Nos. 142, 144, 151 and 157.

Having now detailed all my proceedings for the last half year, I beg leave to add, that I have not overlooked any part of the despatch transmitted to me with your Excellency's Minute of the 11th instant, and that I shall make immediate inquiry into the case of the slave Maria and that of Appollos, and take the earliest opportunity of forwarding to your Excellency the information which has been called for in both these cases by His Majesty's Secretary of State for the Colonies.

I have the honour to be, Sir, your Excellency's most obedient humble servant,

Henry Murphy, Guardian of Slaves.

To His Excellency Lieut.-Gen. the Hon.

Sir G. L. Cole, G. C. B. Governor and Commander in Chief, &c. &c. &c.

I, Henry Murphy, do swear that the above Report, and Documents thereunto annexed, contain a true and accurate statement of the several matters and things therein referred to, to the best of my knowledge and belief.

Henry Murphy, Guardian of Slaves.

Sworn before me, at Cape Town, Cape of Good Hope, this 31st day of December 1828.

G. Lowry Cole, Governor.

N^o 4.

DESPATCH from Secretary Sir *George Murray* to Lieutenant General
Sir *G. Lowry Cole*, &c. &c. &c.

Sir,

Downing-street, 29th August 1829.

I HAVE had under my consideration three half-yearly Reports of the Protector and Guardian of Slaves of the Colony of the Cape of Good Hope, commencing with the 25th day of June 1827, and terminating on the 31st day of December 1828. In adverting to the principal topics suggested by a perusal of these documents,

I must

I must at the outset notice, that great difficulty arises in making intelligible references to them, from the neglect of the very obvious and necessary practice of numbering the pages of these voluminous Reports. This must be attended to in future.

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The cases of Frederica and Jauna, Carel and Mey, Clara and Malatie, illustrate the necessity of establishing by law a rule decisive of the question, in what cases persons who are slaves *de facto* must, in the absence of positive evidence of their legal condition, be presumed to be slaves *de jure*? The rule should be, that, to make good his title, the asserted owner should carry back the proof of it to the date of the Abolition of the Slave-trade, viz. the 1st of January 1808; proof having been brought forward to this effect on the part of the owner, the rule should be reversed, and the title of the master should be regarded as completely established, unless the slave should be able to adduce evidence to prove his title to freedom. You will propose to the Council the enactment of a law to this effect.

It appears that Gabriel, who was claimed as a slave by Mr. Horak, was set at liberty after a servitude of two years and a half, on the ground that he was really a free man; but no justification of having thus held a free man in slavery is made by Mr. Horak on the face of this Report; nor does it appear whether Gabriel received any compensation for his services. You will cause inquiry to be made into these circumstances, and report to me the result.

Throughout all these Reports cases continually recur in which slaves preferring groundless complaints against their owners are forthwith punished as criminals. I have had occasion to advert to this subject in my former communications to you. It may be sufficient for the present to observe, that these Reports leave no room to doubt that great injustice is frequently committed by this practice; I must again, therefore, press upon the Council of Government of the Cape of Good Hope the necessity of rendering the punishment of a slave for groundless complaints dependant upon the master preferring and proving, in each case, a distinct and specific charge, that the imputation made by the slave upon himself was both false and malevolent; and the law should distinctly prescribe the measure of punishment to be inflicted on slaves convicted of calumnies of this nature.

A strong illustration of the inconvenience of the practice to which I have last referred is to be found in the case of Lea, (First Report), where the slave complaining was sentenced to three months imprisonment and payment of costs, because the deputy landrost and hemraden thought the charge totally false and unfounded. The complaint appears to have been generally of ill-treatment. It will be necessary that you should inquire whether there were any peculiar circumstances which were supposed to call for so signal a punishment.

In the Report from the District of George (First Report), a long series of cases occur; in all of which the prosecutor, on behalf of the slave, abandons the case, and the plaintiff (meaning I presume the slave) is condemned to pay the costs. Some further explanation is necessary of this reiterated and uniform failure of these prosecutions.

It will be convenient that the Protector of Slaves at Cape Town should transmit, to all the deputy protectors throughout the colony, printed forms of the returns which they are to make, with proper directions for filling up the blanks. It is highly necessary that uniformity should for the future be observed in the form of these documents.

In the Report from the district of Stellenbosch three cases are stated in which aged slaves, past their labour, were abandoned by their owners on the ground of their inability to maintain them. I should infer from these cases that no provision is made by law for the support of an aged and worn out slave in cases where the owner is unable to discharge that duty. Supposing the inability of the owner to maintain his slave to be completely established to the satisfaction of some competent authority, but not otherwise, the burthen must fall on the public at large; and if the law has not already provided for such cases, the subject should be brought under the consideration of the Council of Government.

In the Report of the Deputy Protector of Uitenhage, 17 distinct cases occur in which slaves, having complained of ill-treatment, were sent back to their masters with a severe punishment. The similarity of the result in all these cases suggests the necessity of some further inquiry being made into the nature of the complaints, and the circumstances which led to so many failures.

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With reference to the Second Report, I observe that the Protector of the Eastern District represents that serious impediments to the progress of Christianity have arisen from the clergyman at Beaufort requiring four sponsors on the baptism of infant slaves. I do not subscribe to the Protector's opinion that this is a proper subject for legislative interference; but you will be probably able, by a private communication with the clergyman in question, to ascertain how far the grievance is susceptible of a remedy, and to induce him to relax from the rigour of his requisition on this subject as far as may be in his power.

You will also consider and report to me how far the complaint of the Protector of the Western District respecting the want of clerical assistance is well founded; and you will, in the exercise of your discretion, make any temporary arrangement for his relief in this respect which may appear to you to be necessary, subject to the approbation of His Majesty's Government.

The Protector for the Western District has adopted a correct rule of proceeding in refusing to claim the freedom of female slaves on the ground of an alleged cohabitation with their masters, except in cases where some satisfactory evidence may be produced in support of the slave's assertion.

With reference to the Protector's complaint of the want of legal assistance in conducting suits for the freedom of slaves, you will apprise the Attorney-general that in all cases of this nature before the Supreme Court it will be considered as a part of his official duty to act on behalf of the slaves; and you will direct the Protector to resort to the Attorney-general for advice and guidance on all such occasions.

The case of J. J. Villiers, charged with the murder of his slave, affords a strong illustration of the inconvenience of the rule adopted by the Supreme Court, by which all persons ignorant of the English language are debarred from serving as jurors.

In the Second Report occurs the case of the slave Sara, in which, though the owners were proved to have used an illegal instrument in her punishment, they not only escaped with impunity, but the party complaining was decreed to pay the costs. It is necessary that some explanation should be afforded of this singular result of the prosecution.

In the case of the slave Jack the owner was fined 6*l.*, although, pending the proceeding, he had taken upon himself to punish the slave for preferring the complaint. I fear that the law will fall into contempt if it can be set at defiance with no greater inconvenience than that of sustaining so trifling a punishment.

From several cases before alluded to, it would appear that severe punishments are imposed upon slaves who fail to make out fully that there have been sufficient grounds for their complaints; but by this case it would appear that a master who has inflicted a punishment upon a slave pending a proceeding escapes with a very light punishment. The contrast which here so obviously shows itself in the principles which guide the administration of justice towards masters and towards slaves requires the most serious consideration of the Government.

In the last case comprised in the Second Report, a slave appears to have been punished with one year's imprisonment to hard labour for the offence of riding a horse without the permission of the owner, it being distinctly stated that there was no proof of any intention to steal the animal. This would seem to be a punishment of extraordinary severity, and some additional information on the subject is necessary for the vindication of such a sentence.

In the Third Report, a case occurs in which the owner of a slave is stated to have lost his services for 18 months, and to have incurred an expense of 100*l.* in resisting a claim to freedom, in which the slave was at last unsuccessful. Such a statement would seem to imply some very considerable defect in the administration of justice, into which an inquiry should be made.

In the same Report, it appears that the Assistant Guardian was unable to compel the attendance of the person against whom the complaint had been made by his slave. If authority to enforce obedience to a citation of this nature is not possessed by this officer himself, nor placed within his reach in some other functionary, the law must be defective, and will require revision; but the nature of the difficulty is not sufficiently explained to enable me to issue any instructions on the subject for your guidance.

Numerous cases occur in this Report in which slaves are condemned to be fed in prison on what is termed "conjee soup," and other unusual articles of diet. I presume therefore that this aliment is either less palatable or less nutritious than the ordinary food of slaves; but if such be the case, it would seem to be a most injudicious

injudicious species of punishment. You will inquire into the subject, and adopt such measures as, in the result of those inquiries, may appear to you necessary for the correction of any abuse which may be found to exist respecting the diet of slaves in prison; and I request that you will also inform me what is the nature of the diet above mentioned.

In the same Report, a person named Flynch appears to have been sentenced to a fine of 5*l.*, with the costs, for punishing a slave boy five times within 24 hours, with a severe instrument, a penalty which would seem quite inadequate to such an outrage.

A case of similar lenity seems to have occurred in the instance of Mrs. D. Necker. This woman and her son, after beating a female in such a manner as to produce several lacerated wounds on the back and breast, for an offence described by the terms "insolence and impertinence," was subjected only to a fine of 5*l.*, a punishment bearing no proportion to the magnitude and aggravated nature of the crime.

The case of Brits, in the same Report, is a still more extraordinary instance of lenity towards a great offender. This man was sentenced to pay 5*l.*; yet the slave appears to have been repeatedly beaten until his person was wounded, and in the intervals of the punishment Brits is proved to have rubbed salt into the wounds. The inhuman cruelty manifested by this wanton aggravation of the sufferings of the slave was sufficient, not merely to justify, but to require, that the offender should be punished to the utmost extent which the law in such a case would have sanctioned.

In the three preceding cases I have observed, with regret, an apparent disposition to shelter from merited punishment persons who have no claim whatever to compassion. It will be your duty to make an early inquiry into this subject, with a view to ascertain to what circumstance this seemingly very misplaced lenity is to be attributed, and how the recurrence of similar decisions may best be prevented for the future.

In the case of the slaves Dattat, Rachel and Amilie, a conviction is recorded for bullock stealing; the evidence, as it appears on the face of this Report, does not amount to any proof of the crime.

The Report from the Assistant Guardian at Worcester is a mere catalogue of names, from which no useful information can be collected. This officer must be admonished of the necessity of transmitting a much more complete account of his proceedings.

I am, &c.
(signed) *G. Murray.*

N^o 5.

DESPATCH from Lieutenant General Sir *G. Lowry Cole* to Secretary
Sir *George Murray*, &c. &c. &c.

(With Two Enclosures).

Sir, Government House, Cape Town, 12th August 1829.

I HAVE the honour herewith to transmit the Reports of the Guardians of Slaves in this Colony for the half year ending 30th June last.

I have the honour to be, &c. &c. &c.

(signed) *G. Lowry Cole.*

Enclosure, No. 1.

REPORT of the Guardian of Slaves for the Eastern Division, for the half year ending on the 1st July 1829.

Sir,

Graham's Town, July 17th, 1829.

I HAVE the honour herewith to transmit, for the information of your Excellency, my Report for the half year ending on the 1st instant. Your Excellency will perceive, by the voluminous details of 137 cases before the several district courts, and 11 before the courts of circuit, that a considerable increase of business has occurred in my department, which I believe may be justly attributed to the slaves becoming daily better informed of the civil rights they have acquired by the 19th Ordinance. There is no question that many of the complaints deemed groundless upon investigation were in reality so, but I conceive that a greater number of them are dismissed from the difficulty of procuring from slaves evidence against

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CAPE OF GOOD HOPE.

Report from
Protector of Slaves.

against their masters, from the well-grounded fear that the power of domestic punishment enjoyed by the latter might be exercised upon some other pretext against them.

Many complaints also originate in false impressions of the existing law, which can only be removed by time and increased knowledge of the relative rights of master and slave; and I must state that it appears to me, that this knowledge would be more speedily acquired, and at the same time the administration of justice improved, were it dispensed by magistrates who were not slave owners, or who from education and habits were not surrounded by prejudices which are not favourable to the improvement of the slave population. My observation has given me sufficient grounds for this general remark, and whenever I have occasion to give it a particular application I shall not fail to do so; but I may here remark that the existence of such a bias is becoming daily more perceptible in the decisions of the native juries (see case No. 10, in Circuit Court, last). The cases No. 37, 64 and 65, in list of cases before the magistrates courts, will show some circumstances of hardship in treatment of a slave for what he did at the suggestion of (whether right or wrong) the Guardian.

An inconsistency between the provisions of the 19th and 40th Ordinances requires, in my opinion, notice and remedy. The 19th Ordinance provides, that whenever a slave is summoned for serious offences, the process shall also be served on the Guardian; and as the 40th Ordinance denies a prisoner, on a preliminary examination, the benefit of counsel or of assistance, the Guardian has, in some instances, been prevented from attending this stage of the proceedings, to the manifest injury of the case of the slave.

The frequent recurrence of advertisements of slaves imprisoned in the several gaols, who, it is stated, unless sooner claimed, will be sold *ad apus jus habentium*, induces me to remark, that in all cases where the presumed slave is not claimed within a moderate time, this presumption should be destroyed, and the prisoner set at large; and that where the master is known, that, instead of keeping the slave in prison, where he is certain to learn no good, and then selling him to a new master, that he should be placed in service for the benefit of the owner until reclaimed.

The 26th Article of the 19th Ordinance providing no penalty to oblige slave-owners in towns to send the slave child to free schools, the education of young slaves makes little progress.

Four manumissions have occurred within the last six months. Upon one, the slave Eva, aged 80 years, a very equivocal benefit has been conferred by the executor of the estate to which she belonged, and who, in that capacity, would have been bound to support her, purchasing her freedom for the sum of 4 s. 6 d.

The same individual has purchased the freedom of the boy Sewan, for the sum of 750 rix dollars, to which, however, the father of the boy, who is a slave, has contributed his whole property, in amount about 450 rix dollars, with the view of securing to himself the society of his child; and I am not without hopes of prevailing upon the manumitter to relinquish his pretended claim upon the services of the boy, of which he is at present somewhat tenacious.

The case of the manumission of Hector, which I brought forward at my own expense before the circuit court, seems to show that some portion of the monies levied as fines might with advantage be placed for similar purposes at the disposal of the Guardian.

I have the honour to be, Sir, your obedient servant,

Geo. Pigot,

His Excellency Sir G. L. Cole, G. C. B.
Governor, &c. &c. Cape of Good Hope.

Guardian of Slaves for the Eastern Province
of the Cape of Good Hope.

Enclosure, No. 2.

REPORT of the Guardian of Slaves for the Western Division, from 25th Dec. 1828 to 24th June 1829.

Sir,

Guardian of Slaves' Office, Cape Town, 29th June 1829.

PURSUANT to the tenor of the 41st Section of Ordinance No. 19, I have now the honour to submit to your Excellency the Report of my proceedings from the 25th December last to the 24th instant, accompanied by copies of the several Reports of the Assistant Guardians in the respective country districts of the Western Province, and a copy of the Return of Manumissions forwarded to me by the Registrar of Slaves and Deeds.

I have on the present occasion, as in duty bound, observed the orders contained in the extract of the Despatch from His Majesty's Secretary of State for the Colonies, transmitted to me on the 12th December last, but as I was apprehensive that if I extended that arrangement to the cases which were pending previously to the receipt of those directions it might impair that perspicuity so necessary in a Report of this nature, I have, in the adoption of the new arrangement, confined myself to the cases that have occurred since the commencement of the present year, and to which, for the better distinction, I have given a new series of numbers: Appendix, Letter (A.) contains these cases, being 51, all of which, excepting Nos. 1, 23, 41, 42, 45, 46, 48, 49, 50 & 51, have been brought to a termination; and it does not appear to me that this part of my Report calls for any further remark.

Appendix (B.) is a return of the several prosecutions that have been carried on *against* slaves, during the preceding half year, in the Supreme Court and Circuit Courts of the Western Province; and no doubt it will be equally gratifying to your Excellency as it is to me to observe, that none of the prisoners mentioned therein have been convicted of any very heinous crime.

I have not inserted in this return, as formerly, the prosecutions against masters of slaves and others for illegal punishment, or on charges of maltreatment, under the impression that it would be more conformable to the intention of His Majesty's Secretary of State that

that such proceedings should appear among the complaints preferred by slaves to the Guardian, and to which, in fact, I consider they belong.

Appendix (C.) contains such of those old cases brought before the late Guardian previously to my appointment, and subsequently before me, as remained unsettled at the date of the last Report. It is not without much pain that I again notice the large number of the former, in which so little progress has been made, and especially in those that were returned to me on a former occasion, and again lately by the Supreme Court, in order to be brought forward according to the forms now in observance; but on this point I can with confidence refer to the Supreme Court collectively, and to their Lordships severally, and also to His Majesty's Attorney-General, that, in every instance within their knowledge, I have acted with energy, and never lost sight, as far as was in my power, of the main object for which, as I understand, a Guardian of Slaves has been appointed; and I further take the liberty to observe, that where the parties themselves have provided an attorney, as in cases Nos. 45 & 46, Appendix (A.) it will be seen that I immediately took steps to have them brought to a legal hearing. However, as I have already fully detailed the obstacles that oppose me in this respect, both in my last Report and in my letter to the Chief Secretary to Government, dated the 12th January last, I shall not dwell any longer here on the subject, but only say, that as I trust your Excellency will see the impossibility of my adopting any further proceedings in the cases alluded to till those impediments shall have been removed, I hope your Excellency, in forwarding this Report to His Majesty's Secretary of State, will prevent any animadversion which otherwise, through a want of knowledge of the real circumstances of my situation, my conduct might be considered as having called for. Before I close my remarks on Appendix (C.) I beg leave to state, that having made myself fully acquainted with the nature of, and circumstances connected with, all those claims to freedom, the documents of which have been returned to me as before mentioned, there are several that I do not believe I shall find sufficient grounds to bring again before the Supreme Court; but at the same time there are some which certainly are not without foundation, and which therefore I consider ought in justice to be brought to a legal hearing, unless the owners of these slaves can produce sufficient evidence to prove that they had a legal title to register them as such in the year 1816, the time when the Slave Registry Office was established. This is a point which I have called upon the owners to elucidate, when I had every reason to believe before-hand that I should meet with a compliance; but these instances have been very few, and I could not, with propriety, have adopted the same course in other cases, as I should have thereby exposed myself to a refusal, and consequently the office of Guardian to public disrespect for issuing an order which it had not the means to enforce; the power of summoning being granted to the Guardian only on applications for slave marriages, as contained in the 21st Section of Ordinance No. 19, but in claims for freedom and similar applications, which are at least equally, if not more important, the Guardian has no authority to summon the owners, or even the witnesses named by the slaves, in support of their statements, which latter I consider indispensable in a preliminary investigation.

Appendix (D.) Nos. 1 to 6, is composed of the half-yearly Reports of the Assistant Guardians in the country districts belonging to my division of the colony, none of which appear to me to call for any particular remark.

Appendix (E.) is a Return of the only deposit made in the saving bank which has taken place since I have been appointed Guardian; and

Appendix (F.) is a copy of the Return, sent in to my office by the Registrar of Slaves, of the manumissions made during the preceding half year, in the effecting of six of which I feel gratified in saying that the Guardian has been instrumental, and of which the particulars will be found in Appendix (A.) No. 7, and in Appendix (C.) No. 146, 150, 162, 165 and 172.

Having now detailed all the chief points of my proceedings during the last six months, I shall take the liberty, previously to closing this Report, to remark generally, on Ordinance No. 19, that, in my humble opinion, in its present state, it does not afford the Guardian sufficient facility in his proceedings; and that the separation of the two offices of Registrar and Guardian of Slaves, and the establishment of the Supreme Court in the place of the former Court of Justice, both which events have taken place since the promulgation of that law, render a revision of it highly desirable; so that the duties of the Guardian, which have been materially altered and considerably increased by the abovementioned changes, and especially by the latter, may be more clearly defined, and more ample provision made for enabling him to carry them on with that promptness, energy and effect which the nature of the office requires.

I have the honour to be, Sir,
Your Excellency's most obedient and most humble servant,
Henry Murphy,
Guardian of Slaves, Western Province.

To His Excellency Lieut.-Gen. the Hon. Sir G. L. Cole, K. G. B.
Governor and Commander in Chief, &c. &c. &c.

I, Henry Murphy, do swear that the above Report, and Documents thereunto annexed, contain a true and accurate statement of the several matters and things therein referred to, to the best of my knowledge and belief.

Henry Murphy, Guardian of Slaves.

Sworn before me, at Cape Town, Cape of Good Hope, this 29th day of June 1829.
G. Lowry Cole, Governor.

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N° 6.

DESPATCH from Secretary Sir *George Murray* to Lieutenant-General Sir *G. Lowry Cole*, &c. &c. &c.

Sir,

Downing-street, 15th June 1830.

I HAVE to acknowledge the receipt of your Despatch of the 12th of August last, enclosing the Report of the Guardians of Slaves in the colony under your government, for the year ending on the 3d of June preceding.

I have purposely delayed conveying to you my sentiments on these papers during the pendency of the discussions respecting the new Order in Council for improving the condition of the Slaves in the Crown Colonies.

That Order having, however, been passed, I now proceed to make such remarks as I think necessary on the Guardian's Report.

1st. In the case of *Marietje*, it is not proved or alleged that the punishment was private, nor that it was inflicted on the *shoulders*.

2d. In the case of *Regina*, there is no proof or suggestion that the punishment inflicted on the female slave was conducted in the manner required by law. A fine of 5*s.* was the only punishment incurred in this case, by a young man who appears, at his mother's command, to have beaten a girl with undue severity. It will no doubt strike you that such a punishment is out of all proportion to so unmanly an offence.

Alida, Apollos,
Jacob, Rosie. Novel.

3d. A long list of cases is again brought forward of persons who are punished for preferring groundless complaints. Some of them are enumerated in the margin. It is unnecessary to trouble you with any remarks on this subject, because the rule which is to be hereafter observed respecting the punishment of persons preferring improper complaints is now laid down by the new slave code.

4th. The Reports from the Assistant Protectors in the country districts are in general so slight and superficial, that it is impossible to derive from the perusal of those documents any distinct view of the manner in which the law has been carried into execution. Nor, indeed, are the Reports of the Protectors themselves exempt from a similar fault. The new Order, however, having prescribed the form in which all reports are to be compiled, with the information which they are to convey, and having rendered the delivery of reports in that form essential to the payment of the Protector's salary, there is no reason to apprehend the recurrence of this fault hereafter; nor would it answer any useful purpose to comment any further on the subject at present.

5th. I am surprised and grieved to find that the habit of punishing slaves by a diet less nutritious or less palatable than that which they usually receive still continues. Thus the slave *Manissa* was sentenced to live on *rice water* for eight days; the slave *Maria*, on conjee soup for four days; *Phillida*, on the same diet for eight days, and *Ponto*, for four days.

You must take effectual measures for discountenancing such barbarous punishments.

Present, Willern,
Sendor, Apollos,
Matra, Dolph,
Rosalyn, Present,
Jonas, Rachel,
David, Abraham,
May, Sophia,
November, Hanna,
Messalina and
Lodrina, Telemachus, Prius.

6th. In a long list of cases, enumerated in the margin, the claims of slaves to their freedom appear to have been, for the present at least, practically defeated, on account of the want of a solicitor to undertake the prosecution, and on account of the expenses with which the judicial proceedings would be attended. The difficulty arising out of the want of a proper advocate and solicitor of these claims has, I apprehend, been already obviated by my instructions that the Attorney-general of the colony should act in this capacity in all slave cases. The difficulty arising from the expense of judicial proceedings will in part be surmounted by the powers given to you in the new Order. But it will probably be necessary also to suggest to the Judges of the Supreme Court the propriety of exercising their powers, by laying down a few short and simple rules for the more expeditious and economical conduct of processes of this nature; with the ample powers enjoyed by the Judges, it is indeed a matter of surprise that they should not have earlier applied a remedy to a grievance of so serious a character as this.

7th. Passing from these general statements to the specific cases which require notice, I observe, first, that in the case of January, the owner of the slave was punished with a fine of only 2*l.* for having kicked the slave in the eye, in such a manner as to produce serious injury. The precise amount and duration of the injury

injury are not explained ; but it is not more needless than painful to have to observe, that for an act of such brutality the punishment was totally inadequate.

8th. Apollos, a slave boy, having been sentenced to receive 125 lashes, for a calumnious complaint against his owner, Mr. Huskisson demanded a copy of the proceedings in that case. It appears that a copy of those proceedings has been procured, but it is not transmitted with these papers. It is a singular oversight, that an explanation furnished in consequence of the Secretary of State's instructions should still be withholden, and I desire to know the cause of this neglect.

9th. The case of Roset raises the questions, whether a slave can purchase his own freedom at a public auction? and whether a duty is payable upon such a transaction? Each of these questions is set at rest by the recent Order in Council.

10th. The case of Philida cannot be more conveniently stated than in the words of the Report itself. They are as follows :

“ The complaint of ill-treatment was not proved, but as the *defendant stated* that he gave the complainant about 10 or 12 lashes with a double bullock strap on her naked back, after having tied her to a cart, the Assistant Guardian referred to the 13th Article of the Ordinance No. 19, and stated, that he left it to the decision of the Court whether any free children are punished in this manner in the schools : whereupon the magistrate declared the defendant not guilty, and sentenced the complainant to a solitary confinement of eight days on conjee soup.”

It really cannot be necessary to occupy your time with any comment upon this extraordinary decision ; but you will ascertain and report to me the name of the magistrate who possesses such peculiar notions of his judicial duty.

11th. The case of the boy Frederick is stated ; from which it appears that a Mr. Douw punished the boy before he had recovered from an illness, and that the boy having fainted during the punishment, Douw left off for a while, but on the recovery of the complainant again continued the punishment. These facts are said to have been proved by two slaves, and to have been partly acknowledged by the defendant. The magistrate, however, dismissed the case for want of proof. The evidence on which this decision was founded must be produced.

12th. It appears that a slave boy named Damon received 15 lashes for preferring a groundless complaint, although the magistrate admitted that the instrument with which the boy had been punished was improper, and warned the defendant to use it no more.

13th. In the same district (Stellenbosch), several cases occur (see the cases of Rosie, Sara, Absalom, Jephtha, Gallant, Adam and Frederick, Arend, Silvester, Goliath, Sevier, Achilles, Africa, Daphne) in which severe punishments were inflicted for non-substantiation of complaints preferred by slaves against their owners ; such, indeed, seems to be almost the invariable result of all applications of that nature. I think myself, therefore, called upon to desire that you will transmit to me a statement of the evidence on either side upon which this long series of punishments was grounded ; no system would seem better calculated to deter the slaves from availing themselves of the protection and advantage promised to them by the law.

I now proceed to the Report of the Protector of Slaves for the Eastern District. This officer has made some preliminary remarks which seem highly deserving of attention. He observes, that many complaints which seem groundless are not so in reality ; for that a slave, sustaining an injury from his owner, has extreme difficulty in procuring the evidence of his fellow-slaves : living under the domestic authority of the same owner, they reasonably dread that some pretext will be found for punishing them for having given their testimony against him. Yet, as appears from the same Report, to prefer a complaint which is not substantiated by evidence is regarded as a serious offence, and punished accordingly. In the case of Manuel, the slave was condemned on this account to receive no less than 45 lashes ; and in the case of Gallant, the number of lashes was reduced to 25 in consequence, as is said, of the age of the offender.

Nothing can more strongly illustrate the necessity of the alteration which has been made in this part of the law ; but these two cases are so peculiar, that I think it absolutely necessary to desire that you will transmit to me more minute reports respecting them.

15th. The recent Ordinance of the Cape of Good Hope for regulating the proceedings against persons accused of crimes denies them the right of being assisted by counsel on the preliminary examinations. This rule, which would seem perfectly proper in ordinary cases, is scarcely compatible with justice in the case of slaves.

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Their ignorance, and the influence of the owner in cases where he is concerned, seem to require that in every stage of the proceedings they should be assisted by an adviser capable of interpreting their meaning and assisting their judgment. It will, therefore, be right that you should bring the remarks of the Protector on this subject under the consideration of your Council, in order that some method may be devised for rescuing slaves from the disadvantages to which they are at present subject on a preliminary examination.

16th. I notice a case which would seem seriously to impugn the wisdom of the Rule by which His Majesty in Council has prohibited any purchase of freedom if effected with money given for that purpose. It appears that the father of a slave contributed his whole property, amounting to 450 rix-dollars, to secure to himself the society of his child. Under the recent Order this would be illegal. Yet I suppose no person would deliberately maintain that the law ought to prevent an act of so much self-denial or parental tenderness. The father who sacrificed the earnings of his whole life to rescue his child from slavery is surely not likely to train that child in evil courses, nor can society at large have any real interest in preventing the repitition of such enfranchisements.

17th. There further occurs the case of a Hottentot, called Claas Dampies, who was tried for inflicting upon a slave named Cupido a punishment of singular barbarity. The offence imputed to Cupido was that he had poisoned his master, and the object of the punishment was to induce him to confess that crime. The Hottentot was convicted, and received a severe punishment; but the owner, who, if one of the witnesses speaks truth, authorized the punishment, was not even put on his trial.

18th. In the case of C. C. Molder, who was indicted for stabbing a slave, all the evidence would seem to sustain the charge, and there is not one word in contradiction to it; yet the verdict acquits the prisoner. Some explanation is necessary of so irregular a result, which the presiding judge will probably be able to furnish.

19th. The Report contains the details of the very scandalous case of a slave named Jephtha. It is stated that this man's master had a child by a Hottentot woman named Tray; that the master first induced the Hottentot Claas to marry this woman, and then prevailed on the slave Jephtha to repudiate his own wife, and to marry Tray, though her Hottentot husband was still alive. This is said to have been done to conceal the master's connection with this woman. The complaint ended in the punishment of Jephtha, with a severe whipping, because he had, in obedience to the Protector, driven his master's cattle home pending the complaint. For this act he was accused before the district judge, who paid no attention to the excuse urged by the Protector, that the slave had acted under his, the Protector's, orders. The magistrate who pronounced this decision must be called upon for an explanation of his conduct.

20th. The Report further contains a long series of cases from which no useful information whatever can be derived; they contain nothing more than a statement of the names of the parties, the nature of the accusation, and the result of these proceedings; but it is the less important to notice these defects at present, since they will be corrected hereafter by the recent Order in Council.

I have, &c.

(signed)

G. Murray.

N^o 7.

DESPATCH from Lieutenant-General Sir *G. Lowry Cole* to Secretary
Sir *George Murray*, &c. &c. &c.

(With Three Enclosures.)

Sir,

Government House, Cape Town,
March 20th, 1830.

I HAVE the honour herewith to transmit the Reports of the Guardians of Slaves for the half year ending the 25th December 1829, together with letters from those officers, furnishing explanations on the various points required in your Despatch of the 29th August last.

With

With regard to the delay that has occurred in forwarding these documents, I beg to state, that on receiving your Despatch above alluded to, (which reached me toward the close of the year,) I lost no time in communicating your wishes to the Guardians of Slaves; and as Major Rogers stated to me that it would be impossible for him to furnish the information you required in sufficient time to accompany the half yearly Reports, which were then almost completed, I conceived that it would be more satisfactory to you to defer transmitting those Returns until the required explanations could accompany them.

I cannot speak too highly of the manner in which Major Rogers appears to have discharged the duties of an office of so troublesome and invidious a nature; and I fully concur in the opinion he has expressed in his Report, of the inadequacy of his means to execute the duties required of him, and of the necessity of an increased establishment.

In reply to that part of your Despatch in which you desire to be informed as to the nature of the food termed "conjee soup," I have the honour to refer to the enclosed Report of the Medical Committee, together with remarks on the subject by Mr. Lawson, late resident magistrate at Graham's Town; and as I conceive that corporal punishment is at all times to be avoided when it is possible to do so, I would trust that this mode of punishment may be approved of, both as more humane, and, as experience has proved, more effectual in preventing crime.

With reference to your inquiries relative to the statement made by the Guardian of Slaves for the Eastern District, of the number of sponsors required by the clergyman at Beaufort in the baptism of infant slaves, on referring to that gentleman, it appeared that Major Pigot was under a mistake in making the representation in question, as two sponsors was the greatest number that had ever been required.

I have the honour to be, &c. &c. &c.

(signed) G. Lowry Cole.

Enclosure, No. 1.

REPORT of the Guardian of Slaves for the Eastern Province, for the last half year of 1829.

Sir,

Graham's Town, 25th December 1829.

I HAVE the honour to transmit herewith, for your Excellency's information, the details of slave cases tried in the Eastern Province during the last six months.

Report from Protector of Slaves.

I beg leave to observe, that the fines imposed during the last two years, in this Province, amount to 172 l. 15 s., of which two thirds is applicable to the purpose of manumitting female children; and as many proper objects for manumission have come under my notice, I trust that the disposal of such sums may be confined to this province.

I have satisfaction in observing, that the attention of my Assistants in the several districts to complaints before they are brought into court, has been the means of preventing numerous trivial complaints, and saving the slaves from the consequent punishment: only four cases of punishment for groundless complaints having occurred during the half year.

The education of slave children, even where access to a free school is easy, does not make any perceptible progress, and probably will not until some penalty is attached to oblige the owner to send the children to school.

The case of Jephtha, upon which I made some remarks in my last Report, I considered it proper to bring under the review of the Judge on circuit. The evident injustice of the sentence against the slave for what he had done at my suggestion, and the irregularity of the conduct of the magistrate at Graaf Reynet in refusing to admit my own evidence in exculpation of the slave, procured all the satisfaction which it appears the law can now give: the judgment having been set aside some months after the slave was flogged. I have reason, however, to hope, that the review of this judgment will do good in future.

I regret to say that little progress is yet made in either marriages or baptisms, either from the ignorance of slaves as to the advantages they acquire by them, or from the interested prejudices of the proprietors. The improvement in morality to be expected from marriages among the slaves is so important an object, independent of its preventing the separate sale of male and female, that I am adopting means to impress upon the master the necessity of encouraging marriage, and upon the slaves the interest they have in applying for permission to marry; and I trust that I shall soon be enabled to report some improvement in these particulars.

With reference to the case No. 3, page 7, at George, and the case No. 6, page 8, at Uitenhage, I beg to solicit your Excellency's attention to the situation of difficulty in which the Guardian is placed with respect to such cases. The Court readily grants the motion which enables the Guardian to sue without the expenses of Court, but which does not relieve the slave from the expense of summoning the necessary witnesses, and of paying their travelling charges. I would beg to suggest, that (wherever it might be thought proper to risk the discretion of bringing forward such cases,) some portion of the fines levied would

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be well applied in paying such expenses. As the rule can only be obtained for the next circuit, the delay of several months thus caused is an evil not so capable of remedy. When the witnesses reside at great distances from the court, the Guardian, having no power to summon, nor any means of procuring a summons until he has entered a complaint for trial, is very apt to be misled. Some process similar to the preliminary examinations held by the clerks of the peace in criminal cases would be highly desirable in civil cases for the Circuit Court, which at present are often likely to fail for want of full information before trial.

I have the honour to be, Sir, your obedient servant,
Geo. Pigot,

Guardian of Slaves for the Easter Province.

His Excellency the Hon. Sir G. L. Cole, G. C. B.
Governor of the Cape of Good Hope.

I, George Pigot, do swear that these annexed Reports contain a true and faithful account of proceedings and occurrences in my department as Guardian of Slaves for the Eastern Province of this colony, for the half year ending 24th December 1829.

Geo. Pigot,
Guardian of Slaves for the Eastern Province.

Sworn before me, at Graham's Town, this 24th day of December 1829.

Wm. Waddel,
Resident Magistrate of Albany.

Enclosure, No. 2.

REPORT of the Guardian of Slaves for the Western Division, from 24th June to 31st August 1829.

Guardian of Slaves' Office, Cape Town,
31st August 1829.

Sir,

IN consequence of my removal from the office of Guardian of Slaves, through which my duties in that situation will cease this day, I have the honour herewith to transmit to your Excellency reports of my proceedings from the 24th June last to the present date.

Appendix, Letter (A.) contains all the cases brought before me since the date of the last Report, with the proceedings I have adopted therein, and the results for as far as they have been brought to a termination, and also those of the new arrangement which were still pending on that date.

Appendix, Letter (B.) contains a return of the prosecutions carried on against slaves in the Supreme Court during the last criminal sessions, being the only trials of slaves which have occurred within the two preceding months.

Appendix, Letter (C.) is a detail of the further proceedings I have adopted in two cases of the old arrangement, which were pending when I sent in my last Report, being the only ones of the old cases in which I have been since able to make any progress.

No deposit has been made in the saving bank subsequent to the date of my last Report.

As no removals or alterations have taken place in the offices of the several Assistant Guardians in the western province, I have not deemed it necessary to call for reports of their proceedings for the last two months; considering it more accordant with the spirit of the 41st Section of Ordinance No. 19, that their returns should embrace the whole of the half year ending on the 25th December next, and be transmitted with my successor's ensuing Report up to that date; and under the same impression, I have not called upon the Registrar of Slaves and Deeds for a return of the manumissions effected during the same period.

I have the honour to be, with great respect, Sir,

Your Excellency's most obedient and most humble servant,

Henry Murphy,
Guardian of Slaves, Western Province.

To His Excellency Sir G. L. Cole,
Governor and Commander in Chief, &c. &c. &c.

I, Henry Murphy, do swear that the above Report, and Documents thereunto annexed, contain a true and accurate statement of the several matters and things therein referred to, to the best of my knowledge and belief.

Henry Murphy.

Sworn before me, the 14th day of September 1829

B. Borehews, Judge of Police.

Colonial Office, Cape Town, 14th September 1829.

The preceding Report was this day lodged in this office, to be laid before His Excellency the Governor on his return from the Eastern Division of the Colony.

John Bell, Secretary to Government.

Enclosure, No. 3.

REPORT of the Guardian of Slaves for the Western Division, from the 1st September to 24th December 1829.

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Report from Protector of Slaves.

Sir,

Guardian of Slaves' Office, Cape Town, 29th Dec. 1829.

I HAVE the honour, in obedience to the directions in 41st Article, Ordinance No. 19, herewith to submit to your Excellency the Report of my proceedings from the 1st September to the 24th instant, accompanied by the several Reports and Returns therein directed to be transmitted by me from the Assistant Guardians in the country districts of the western province of this Colony, and the Return of Manumissions, all of which your Excellency will perceive comprise the transactions of the last half year.

In Appendix (A.) will be found the complaints of ill-treatment, claims to freedom, and other applications, made to me between the 1st September and 25th December, amounting to 41; and although some of these were of a perplexing nature, and occupied a considerable portion of time, yet they have all been brought to a satisfactory conclusion, with the exception of four, which are in progress, and which I have every expectation of speedily adjusting on advantageous terms: they are cases Nos. 84, 85, 95 and 102.

Appendix, Letter (B.) contains the return of prosecutions for and against slaves in the several law courts in the western division, at which I was present, between 1st September and 25th December. Upon a reference to which, your Excellency will perceive that, as far as regards the prosecutions against slaves, they are confined principally to thefts in town, and cattle stealing in the country.

There is however the trial of Lena, case 18, before the Circuit Court at Worcester, for the crime of arson, which was of a very serious cast; but she was a very young girl at the period the charge was imputed to her, and as she was ultimately acquitted it is to be hoped that she really never was guilty.

In the trials for offences against the persons of slaves, in the same Appendix, will be found that of Willen, case 28, before the Chief Justice in Cape Town, for the murder of the female slave Philida, which being of an interesting nature in so far as related to the circumstances of the case, and difficulty in procuring evidence, that I have thought it of sufficient importance to annex, immediately following the summary of the result, a narrative of the particulars, and which will be found to commence with page 63.

Appendix, Letter (C.), No. 1, are statements of complaints and other applications which were made in Cape Town prior to the 25th December 1828, and the progress which has been made in any of them; and in No. 2 of same Appendix are the particulars of eight cases left unsettled by the late Guardian, and the proceedings which have been taken therein since the 1st of September last. It is my intention to submit to His Majesty's Attorney-general such of these cases as have been hitherto lying over for want of professional aid and advice.

Appendix, Letter (D.), being four in number, are the Reports of the Assistant Guardians for the last six months of 1829, up to the latest periods to which they could transmit them.

In those of Clan William, Stellenbosch and Worcester, there are no cases in which the Assistant Guardians have attended officially in the circuit court, as I was myself present at both the latter stations; and the trials from Clan William were also held in the court at Worcester; in Swellendam there was only one trial before the judge of circuit, being that of Simrie, of Abel Mardis, case No. 4, for mill-breaking and theft, which being proved to the satisfaction of the jury, the prisoner was found guilty, and condemned to two years imprisonment, with hard labour.

In the district of Stellenbosch, the next in consideration to Cape Town and district in the number of slaves, will be found a long list of complaints and other applications under Appendix, Letter (D.) No. 2; but if I except the cases of Kootje, No. 137, slave late of J. Relief, and Reppa, slave of Adriaan P. Cloete, No. 144, there are none of a very particular nature; for although the charges made by some of the complaining slaves are very serious, yet, on investigation, much of their apparent enormity is disproved. The two foregoing cases, Nos. 137 and 144, being under the investigation of the Attorney-general, at whose instance it is supposed the masters will be indicted at the next circuit court, I refrain from making any remark upon them.

Appendix, Letter (E.) is the particulars of the only slave marriage; and Letter (F.) of the only baptism which has been reported to me as having taken place within the last six months.

Appendix, Letter (G.) is the return of manumissions effected between the 25th June and 25th December, being in Cape Town, 99, exclusive of 5 erased from the registers; and in the country districts of the Western Province, 11; making a general total of 115, not including those that will be reported by the Guardian of the Eastern districts. A reference to the list of manumissions will be very satisfactory, as there will be found that no less than 53 out of the 99 in Cape Town have been manumitted by "free gift;" and some of those have been left property to a considerable amount.

I have also to state, that there are 23 female children who have been purchased for their freedom by the Philanthropic Society, but whose names are not yet taken from the registers, as some new law is necessary to enable the Society to apprentice these children, in consequence of the Article No. 5 in Ordinance 50, prohibiting any coloured person from contracting for service for a longer period than one year, which regulation I consider to militate greatly against manumission of slaves; for if it were permitted slaves to contract for a reasonable period, in return for such an advance in money as would procure their freedom, many deserving slaves, who are good mechanics, would be liberated from slavery; but

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though persons may be found willing to run the risk of their dying, by which they would lose whatever they advance, they will not be left to the mercy of the manumitted, who, after the expiration of a year, may be unwilling to re-engage in the same service, being no longer bound to do so but in gratitude.

I think that if a discretion, authorized by law, was vested in the Guardian to approve of arrangements of voluntary apprenticeship, in remuneration for the advance of money to purchase freedom, manumissions would be much more numerous.

In the Return of Manumissions will be found the names of aged persons; but none who are unable to earn a livelihood are allowed to be emancipated by their owners, but upon their own particular request, and when they have the means of support, or relatives who will take care of them.

Whilst on the subject of manumissions, I take the liberty to observe, that the system upon which the Philanthropic Society is formed, being that of reserving females from slavery by purchase, before they arrive at the age of parturition, is one which has already been of infinite service, and if encouraged and assisted by the Home Government, will eventually tend greatly towards exterminating slavery.

If the Home Government would grant a loan of some thousand pounds, without expecting interest for it, and that the interest alone, which would be safely obtained here at six per cent., was appropriated to the purchase of female slave children, it would do much, assisted by the private pecuniary aid which humane individuals may from time to time give to it; and if there be a tax imposed upon the registry of the births of female children, and a reward for not registering them, as submitted in my Report of the 31st December 1827, slavery might more imperceptibly and more equitably be abolished than by any compulsory mode which the slave proprietors will consider as infringing upon their right of property, and those so manumitted will no doubt be better subjects than such as too suddenly emerge from a state of bondage to unlimited and uncontrolled freedom.

There have been no deposits in the saving banks since last Report, and the whole amount deposited is only 25 s.

I consider these banks more useful to the Hottentots, and other coloured tribes, than to the slaves, and that branch banks in the country for their accommodation would be very beneficial. The slaves, when they have money, place it in the hands of some person in whom they have confidence, who obtain for them or allow them at the rate of six per cent. per annum.

These being all the points upon which I consider myself bound by my instructions or my duty to remark, I beg respectfully to conclude, and have the honour to be,

Sir, your Excellency's most obedient and very humble servant,

G. J. Rogers,

Guardian of Slaves, W. D.

To His Excellency Lieut.-Gen. the Hon.

Sir G. L. Cole, G.C.B., Governor and Commander in Chief, &c. &c. &c.

I, George Jackman Rogers, do swear that the above Report, and Documents thereto annexed, contain a true and accurate statement of the several matters and things therein referred to, to the best of my knowledge and belief.

G. J. Rogers,

Guardian of Slaves, W. D.

Sworn before me, at Cape Town, this 25th day of February 1830.

G. Lowry Cole.

N° 8.

DESPATCH from Lord Viscount *Goderich* to Lieut.-General Sir *G. Lowry Cole*, &c. &c. &c.

Sir,

Downing-street, 20th Dec. 1830.

Correspondence.

I HAVE had under my consideration your Despatch of the 20th of March last, with the Reports therein enclosed from the several Guardians of Slaves for the half year ending in December last.

It does not appear that these Reports contain any cases which call for special instructions from me. I lament, indeed, to observe, that the practice still continues of inflicting severe punishment on slaves who fail to substantiate complaints which they may prefer against their masters.

This practice has prevailed especially in the country districts, although not in all to the like extent. Now, although it may be necessary, and even just, to punish a slave who has been proved to have falsely accused his master of an offence, the commission of which, if proved, would subject the latter to punishment, yet it strikes me as being cruel and unjust to condemn a slave to 25 or 30 lashes, or to solitary confinement for a certain number of days upon a low diet, for failing to prove that

which the slave was unable to substantiate, but which is not therefore proved to have been false. The effect of such a practice must be to deter slaves from preferring any complaints which they cannot substantiate by credible witnesses, and, consequently, to encourage instead of checking oppression and injustice.

I have been happy, however, to observe, that in many cases the Guardians, and even occasionally masters themselves, have, by their personal interference, suspended the application of punishment, which would otherwise have been inflicted on slaves failing to substantiate their grievances; and I am willing even to believe that in very many of the cases to which I have referred the magistrates may have had reasons which do not appear in the Reports for presuming the complaining slaves to have been actuated by a culpable or malicious motive. But upon this subject the late Order of His Majesty in Council has happily prescribed rules for henceforth reserving to the slaves the necessary facility in pressing their complaints; and I now only allude to the abuses in question as deserving the reprobation of His Majesty's Government.

It is painful to me to observe that neither marriage nor baptism are making any progress amongst the slaves.

With regard to Major Rogers's representation respecting the inadequacy of the Guardian's establishment, I need only remark, that I consider it indispensably requisite that this officer should have the accommodation of a proper office for the preservation of his papers, and for the reception of the numerous persons with whom he has to communicate; and I certainly think that he has assigned strong reasons to justify the appointment of one, if not two clerks, to assist him in carrying on the arduous duties of his office.

I have, &c.
(signed) *Goderich.*

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Correspondence.

P. S.—I think it proper to observe that the case of the individual named Flynch or Flinch, who was sentenced to pay a fine of 5 *l.* for severely punishing the slave boy Jacob five times within 24 hours, occurred in the district of Stellenbosch, as you will perceive by reference to the Report of the Assistant Guardian for that district, dated the 9th December 1829.

PROTECTORS OF SLAVES REPORTS.

COPIES OF REPORTS

FROM THE

PROTECTORS OF SLAVES

IN THE

COLONIES of *Demerara, Berbice, Trinidad,*
St. Lucia, the Cape of Good Hope and
Mauritius.

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Ordered, by The House of Commons, to be Printed,
10 March 1831.
