A DISSERTATION ON SLAVERY: WITH A PROPOSAL FOR THE GRADUAL ABOLITION OF IT, IN THE STATE OF VIRGINIA.

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Slavery not only violates the Laws of Nature, and of civil Society, it also wounds the best Forms of Government: in a Democracy, where all Men are equal, Slavery is contrary to the Spirit of the Constitution. MONTESQUIEU.

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TO THE

General Assembly of Virginia,

To whom it belongs to decide upon the expediency and practicability of a plan for the *gradual abolition* of *Slavery* in this commonwealth,

The following pages are most respectfully submitted and inscribed,

BY THE AUTHOR.

Williamsburg, in Virginia, May 20, 1796.

TO THE READER.

The following pages form a part of a courſe of Lectures on Law and Police, delivered in the Univerſity of William and Mary, in this commonwealth. The Author conſidering the Abolition of Slavery in this State, as an object of the firſt importance, not only to our moral character and domeſtic peace, but even to our political ſalvation; and being perſuaded that the accompliſhment of ſo momentous and deſirable an undertaking will in great meaſure depend upon the early *adoption of ſome plan for that purpoſe, with diffidence ſubmits to the conſideration of his countrymen his ideas on a ſubject of ſuch conſequence. He flatters himſelf that the plan he ventures to ſuggeſt, is liable to fewer objections than moſt others that have been ſubmitted to the conſideration of the public, as it will be attended with a gradual change of condition in the blacks, and cannot poſſibly affect the intereſt either of* creditors, *or any other deſcription of perſons of the* preſent generation: *and poſterity he makes no doubt will feel themſelves relieved from a perilous and grievous burden by the timely adoption of a plan, whoſe operation may be felt by them, before they are borne down by a weight which threatens deſtruction to our happineſs both public and private.*

☞ The following ADDITIONAL NOTES have been received from the Author ſince the body of this work was printed off.

In page 20, *after the word* arms, *in line* 5, *read this note:*

This was the caſe under the laws of the ſtate; but the Act of 2. Cong. c. 33. for eſtabliſhing an uniform militia throughout the United States, ſeems to have excluded all but free white men from bearing arms in the militia.

To the word ſlave, *page* 47, *line* 14, *add the following note:*

It may not be improper here to note, that the firſt congreſs of the United States, at their third ſeſſion, Dec. 1793, paſſed an act to prohibit the carrying on the ſlave trade from the United States to any foreign place or country; the proviſions of which ſeem well calculated to reſtrain the citizens of united America from embarking in ſo infamous a traffick.

STATE OF SLAVERY IN VIRGINIA.

IN the preceding Enquiry *(a)* into the abſolute rights of the citizens of united America, we muſt not be underſtood as if thoſe rights were equally and univerſally the privilege of all the inhabitants of the United States, or even of all thoſe, who may challenge this land of freedom as their native country. Among the bleſſings which the Almighty hath ſhowered down on theſe ſtates, there is a large portion of the bittereſt draught that ever flowed from the cup of affliction. Whilſt America hath been the land of promiſe to Europeans, and their deſcendants, it hath been the vale of death to millions of the wretched ſons of Africa. The genial light of liberty, which hath here ſhone with unrivalled luſtre on the former, hath yielded no comfort to the latter, but to them hath proved a pillar of darkneſs, whilſt it hath

(a) The ſubject of a preceding Lecture, with which the preſent was immediately connected, was, An Enquiry into the Rights of Perſons, as Citizens of the United States of America.

conducted the former to the moſt enviable ſtate of human exiſtence. Whilſt we were offering up vows at the ſhrine of Liberty, and ſacrificing hecatombs upon her altars; whilſt we ſwore irreconcilable hoſtility to her enemies, and hurled defiance in their faces; whilſt we adjured the God of Hoſts to witneſs our reſolution to live free, or die, and imprecated curſes on their heads who refuſed to unite with us in eſtabliſhing the empire of freedom; we were impoſing upon our fellow men, who differ in complexion from us, a *ſlavery*, ten thouſand times more cruel than the utmoſt extremity of thoſe grievances and oppreſſions, of which we complained. Such are the inconſiſtencies of human nature; ſuch the blindneſs of thoſe who pluck not the beam out of their own eyes, whilſt they can eſpy a moat, in the eyes of their brother; ſuch that partial ſyſtem of morality which confines rights and injuries, to particular complexions; ſuch the effect of that ſelf-love which juſtifies, or condemns, not according to principle, but to the agent. Had we turned our eyes inwardly when we ſupplicated the Father of Mercies to aid the injured and oppreſſed; when we invoked the Author of Righteouſneſs to atteſt the purity of our motives, and the

juſtice of our cauſe; *(b)* and implored the God of Battles to aid our exertions in its defence, ſhould we not have ſtood more ſelf convicted than the contrite publican! Should we not have left our gift upon the altar, that we might be firſt reconciled to our brethren whom we held in bondage? Should we not have looſed their chains, and broken their fetters? Or if the difficulties and dangers of ſuch an experiment prohibited the attempt during the convulſions of a revolution, is it not our duty to embrace the firſt moment of conſtitutional health and vigour, to effectuate ſo deſirable an object, and to remove from us a ſtigma, with which our enemies will never fail to upbraid us, nor our conſciences to reproach us? To form a juſt eſtimate of this obligation, to demonſtrate the incompatability of a ſtate of ſlavery with the principles of our government, and of that revolution upon which it is founded, and to elucidate the practicability of its total, though gradual, abolition, it will be proper to conſider the nature of ſlavery, its properties, attendants, and conſequences in general; its riſe, progreſs, and preſent

(b) The American ſtandard, at the commencement of thoſe hoſtilities which terminated in the revolution, had theſe words upon it—An Appeal to Heaven!

ſtate not only in this commonwealth, but in ſuch of our ſiſter ſtates as have either perfected, or commenced the great work of its extirpation; with the means they have adopted to effect it, and thoſe which the circumſtances and ſituation of our country may render it moſt expedient for us to purſue, for the attainment of the ſame noble and important end. *(c)*

* Lib. 1. Tit. 2.

According to Juſtinian, * the firſt general diviſion of perſons, in reſpect to their rights, is into freemen and ſlaves. It is equally the glory and the happineſs of that country, from which the citizens of the United States derive their origin, that the traces of ſlavery, ſuch as at preſent exiſts in ſeveral of the United States, are there utterly extinguiſhed. It is not my deſign to enter into a minute enquiry whether it ever had exiſtence there, nor to compare the ſituation of villeins, during the exiſtence of pure villenage, with that of modern domeſtic ſlaves. The records of thoſe times, at leaſt, ſuch as have reached this

(c) The Author here takes the liberty of making his acknowledgments to the reverend Jeremiah Belknap, D. D. of Boſton, and to Zephaniah Swift, Eſq. repreſentative in congreſs from Connecticut, for their obliging communications; he hath occaſionally made uſe of them in ſeveral parts of this Lecture, where he may have omitted referring to them.

quarter of the globe, are too few to throw a ſatisfactory light on the ſubject. Suffice it that our anceſtors migrating hither brought not with them any prototype of that ſlavery which hath been eſtabliſhed among us. The firſt introduction of it into Virginia was by the arrival of a Dutch ſhip from the coaſt of Africa having *twenty* Negroes on board, who were ſold here in the year 1620. * In the year 1638 we find them in Maſſachuſetts. *(d)* They were introduced into Connecticut ſoon after the ſettlement of that colony; that is to ſay, about the ſame period. *(e)* Thus early had our forefathers ſown the ſeeds of an evil, which, like a leproſy, hath deſcended upon their poſterity with accumulated rancour, viſiting the ſins of the fathers upon ſucceeding generations. — The climate of the northern ſtates leſs favourable to the conſtitution of the natives of Africa, † than the ſouthern, proved alike unfavourable to their propagation, and to the increaſe of their numbers by importations. As the ſouthern colonies advanced in population, not only importations increaſed there, but Nature herſelf, under a climate more congenial to the African conſtitution,

* Stith 182.

† Dr. Belknap. Zephan. Swift.

(d) Dr. Belknap's anſwers to St. G. T.'s queries.

(e) Letter from Zephaniah Swift to St. G. T.

assisted in multiplying the blacks in those parts, no less than in diminishing their numbers in the more rigorous climates of the north; this influence of climate moreover contributed extremely to increase or diminish the value of the slave to the purchasers, in the different colonies. White labourers, whose constitutions were better adapted to the severe winters of the New England colonies, were there found to be preferable to the Negroes, * who, accustomed to the influence of an ardent sun, became almost torpid in those countries, not less adapted to give vigour to their laborious exercises, than unfavourable to the multiplication of their species; in those colonies, where the winters were not only milder, and of shorter duration, but succeeded by an intense summer heat, as invigorating to the African, as debilitating to the European constitution, the Negroes were not barely more capable of performing labour than the Europeans, or their descendants, but the multiplication of the species was at least equal; and, where they met with humane treatment, perhaps greater than among the whites. The purchaser therefore calculated not upon the value of the labour of his slave only, but, if a female, he regarded her

* Dr. Belknap. Zephan. Swift.

as "the fruitful mother of an hundred more:" and many of these unfortunate people have there been in this state, whose descendants even in the compass of two or three generations have gone near to realize the calculation.—The great increase of slavery in the southern, in proportion to the northern states in the union, is therefore not attributable, *solely*, to the effect of sentiment, but to natural causes; as well as those considerations of profit, which have, perhaps, an equal influence over the conduct of mankind in general, in whatever country, or under whatever climate their destiny hath placed them. What else but considerations of this nature could have influenced the merchants of the freest nation, at that time in the world, to embark in so nefarious a traffic, as that of the human race, attended, as the African slave trade has been, with the most atrocious aggravations of cruelty, perfidy, and intrigues, the objects of which have been the perpetual fomentation of predatory and intestine wars? What, but similar considerations, could prevail on the government of the same country, even in these days, to patronize a commerce so diametrically opposite to the generally received maxims of that

government. It is to the operation of these conſiderations in the parent country, not leſs than to their influence in the colonies, that the riſe, increaſe, and continuance of ſlavery in thoſe Britiſh colonies which now conſtitute united America, are to be attributed, as I ſhall endeavour to ſhew in the courſe of the preſent enquiry. It is now time to enquire into the nature of ſlavery, in general, and take a view of its conſequences, and attendants in this commonwealth, in particular.

Slavery, ſays a well informed writer * on the ſubject, has been attended with circumſtances ſo various in different countries, as to render it difficult to give a general definition of it. Juſtinian calls it a conſtitution of the law of nations, by which one man is made ſubject to another, contrary to nature. † Grotius deſcribes it to be an obligation to ſerve another for life, in conſideration of diet, and other common neceſſaries. ‡ Dr. Rutherforth, rejecting this definition, informs us, that perfect ſlavery is an obligation to be directed by another in all one's actions. § Baron Monteſquieu defines it to be the eſtabliſhment of a right, which gives one man ſuch a power over another, as renders him abſolute maſter over his life and

* Hargrave's caſe of Negroe Somerſet.

† Lib. 1. Tit. 3. Sect. 2.

‡ Lib. 2. c. 5. Sect. 27.

§ Lib. 1. c. 20. pa. 474.

fortune. * Theſe definitions appear not to embrace the ſubject fully, ſince they reſpect the condition of the ſlave, in regard to his *maſter*, only, and not in regard to the *ſtate*, as well as the *maſter*. The author laſt mentioned obſerves, that the conſtitution of a ſtate may be free, and the ſubject not ſo. The ſubject free, and not the conſtitution of the ſtate. † Purſuing this idea, inſtead of attempting a general definition of ſlavery; I ſhall, by conſidering it under a threefold aſpect, endeavour to give a juſt idea of its nature.

* Lib. 15. c. 1.

† Lib. 12. c. 1.

I. When a nation is, from any external cauſe, deprived of the right of being governed by its own laws, only, ſuch a nation may be conſidered as in a ſtate of *political ſlavery*. Such is the ſtate of conquered countries, and generally, of colonies, and other dependant governments. Such was the ſtate of united America before the revolution. In this caſe the perſonal rights of the ſubject may be ſo far ſecured by wholeſome laws, as that the individual may be eſteemed free, whilſt the ſtate is ſubject to a higher power: this ſubjection of one nation, or people, to the will of another, conſtitutes the firſt ſpecies of ſlavery, which, in order to diſtinguiſh

it from the other two, I have called political; inaſmuch as it exiſts only in reſpect to the governments, and not to the individuals of the two countries: Of this it is not our buſineſs to ſpeak, at preſent.

II. Civil liberty being no other than natural liberty ſo far reſtrained by human laws, and no farther, as is neceſſary and expedient for the general advantage of the public, * whenever that liberty is, by the laws of the ſtate, further reſtrained than is neceſſary and expedient for the general advantage, a ſtate of *civil ſlavery* commences immediately: this may affect the whole ſociety, and every deſcription of perſons in it, and yet the conſtitution of the ſtate be perfectly free. And this happens whenever the laws of a ſtate reſpect the form, or energy of the government, more than the happineſs of the citizen; as in Venice, where the moſt oppreſſive ſpecies of civil ſlavery exiſts, extending to every individual in the ſtate, from the pooreſt gondolier to the members of the ſenate, and the doge himſelf.

* Blackſtone's Com. c. 125.

This ſpecies of ſlavery alſo exiſts whenever there is an inequality of rights, or privileges, between the ſubjects or citizens of the ſame ſtate, except ſuch as neceſſarily reſult from the exerciſe of a pub-

lic office; for the pre-eminence of one claſs of men muſt be founded and erected upon the depreſſion of another; and the meaſure of exaltation in the former, is that of the ſlavery of the latter. In all governments, however conſtituted, or by what deſcription ſoever denominated, wherever the diſtinction of rank prevails, or is admitted by the conſtitution, this ſpecies of ſlavery exiſts. It exiſted in every nation, and in every government in Europe before the French revolution. It exiſted in the American colonies before they became independent ſtates; and notwithſtanding the maxims of equality which have been adopted in their ſeveral conſtitutions, it exiſts in moſt, if not all, of them, at this day, in the perſons of our free Negroes and mulattoes; whoſe civil incapacities are almoſt as numerous as the civil rights of our free citizens. A brief enumeration of them, may not be improper before we proceed to the third head.

Free Negroes and mulattoes are by our conſtitution excluded from the right of ſuffrage, *(f)* and by conſequence, I appre-

(f) The Conſtitution of Virginia, art. 7. declares, that the right of ſuffrage ſhall remain as then exerciſed: the act of 1723, c. 4 (edit. 1733,), ſect. 23, declared, that no Negroe, mulattoe, or Indian, ſhall have any

hend, from office too: they were formerly incapable of ſerving in the militia, except as drummers or pioneers, but now I preſume they are enrolled in the liſts of thoſe that bear arms, though formerly puniſhable for preſuming to appear at a muſter-field. * During the revolution war many of them were enliſted as ſoldiers in the regular army. Even ſlaves were not rejected from military ſervice at that period, and ſuch as ſerved faithfully during the period of their enliſtment, were emancipated by an act paſſed after the concluſion of the war. † An act of juſtice to which they were entitled upon every principle. All but houſekeepers, and perſons reſiding upon the frontiers are prohibited from keeping, or carrying any gun, powder, ſhot, club, or other weapon offenſive or defenſive: ‡ Reſiſtance to a white perſon, in any caſe, was, formerly, and now, in any caſe, except a wanton aſſault on the Negroe or mulattoe, is puniſhable by whipping. § No Negroe or mulattoe can be a witneſs

* 1723. c. 2.

† Oct. 1783. c. 3.

‡ 1748. c. 31. Edit. 1794.

§ Ib. c. 103.

vote at the election of burgeſſes, or any other election whatſoever.—This act, it is preſumed, was in force at the adoption of the conſtitution.—The act of 1785, c. 55 (edit. of 1794, c. 17,), alſo expreſsly excludes them from the right of ſuffrage.

in any proſecution, or civil ſuit in which a white perſon is a party. * Free Negroes together with ſlaves were formerly denied the benefit of clergy in caſes where it was allowed to white perſons; but they are now upon an equal footing as to the allowance of clergy, though not as to the conſequence of that allowance, inaſmuch as the court may ſuperadd other corporal puniſhments to the burning in the hand uſually inflicted upon white perſons, in the like caſes. † Emancipated Negroes may be ſold to pay the debts of their former maſter contracted before their emancipation; and they may be hired out to ſatisfy their taxes where no ſufficient diſtreſs can be had. Their children are to be bound out apprentices by the overſeers of the poor. Free Negroes have all the advantages in capital caſes, which white men are entitled to, except a trial by a jury of their own complexion: and a ſlave ſuing for his freedom ſhall have the ſame privilege. Free Negroes reſiding, or employed to labour in any town muſt be regiſtered; the ſame thing is required of ſuch as go at large in any county. The penalty in both caſes is a fine upon the perſon employing, or harbouring them, and impriſonment of the

* 1794. c. 141.

† 1794. c. 103.

Negroe. * The migration of free Negroes or mulattoes to this ſtate is alſo prohibited; and thoſe who do migrate hither may be ſent back to the place from whence they came. † Any perſon, not being a Negroe, having one-fourth or more Negroe blood in him is deemed a mulattoe. The law makes no other diſtinction between Negroes and mulattoes, whether ſlaves or freemen. Theſe incapacities and diſabilities are evidently the fruit of the third ſpecies of ſlavery, of which it remains to ſpeak; or, rather, they are ſcions from the ſame common ſtock: which is,

III. That condition in which one man is ſubject to be directed by another in all his actions; and this conſtitutes a ſtate of *domeſtic ſlavery*; to which ſtate all the incapacities and diſabilities of civil ſlavery are incident, with the weight of other numerous calamities ſuperadded thereto. And here it may be proper to make a ſhort enquiry into the origin and foundation of domeſtic ſlavery in other countries, previous to its fatal introduction into this.

‡ Slaves, ſays Juſtinian, are either born ſuch or become ſo. ‡ They are born ſlaves when they are children of bond women; and they become ſlaves, either

* 1794. c. 163.

† 1794. c. 164.

‡ Inſt. lib. 1. tit. 1.

by the law of nations, that is, by captivity; for it is the practice of our generals to ſell their captives, being accuſtomed to preſerve, and not to deſtroy them: or by the civil law, which happens when a free perſon, above the age of twenty, ſuffers himſelf to be ſold for the ſake of ſharing the price given for him. The author of the Commentaries on the Laws of England thus combats the reaſonableneſs of all theſe grounds: * "The conqueror," ſays he, "according to the civilians, had a right to the life of his "captives; and having ſpared that, has "a right to deal with him as he pleaſes. "But it is an untrue poſition, when taken "generally, that by the law of nature "or nations, a man may kill his enemy: "he has a right to kill him only in par"ticular caſes; in caſes of abſolute ne"ceſſity for ſelf-defence; and it is plain "that this abſolute neceſſity did not ſub"ſiſt, ſince the victor did not actually kill "him, but made him priſoner. War "itſelf is juſtifiable only on principles "of ſelf-preſervation; and therefore it "gives no other right over priſoners but "merely to diſable them from doing "harm to us, by confining their perſons: "much leſs can it give a right to kill,

* 1. b. c. 4. 23.

" torture, abuſe, plunder, or even to
" enſlave, an enemy, when the war is ver.
" Since therefore the right of *making* ſlaves
" by captivity, depends on a ſuppoſed
" right of ſlaughter, that foundation fail-
" ing, the conſequence drawn from it
" muſt fail likewiſe. But, ſecondly, it
" is ſaid ſlavery may begin *jure civili ;*
" when one man ſells himſelf to another.
" This, if only meant of contracts to
" ſerve, or work for, another, is very
" juſt: but when applied to ſtrict ſlavery,
" in the ſenſe of the laws of old Rome or
" modern Barbary, is alſo impoſſible.
" Every ſale implies a price, a *quid pro*
" *quo*, an equivalent given to the ſeller,
" in lieu of what he transfers to the
" buyer; but what equivalent can be
" given for life and liberty, both of
" which, in abſolute ſlavery, are held
" to be in the maſter's diſpoſal? His
" property, alſo, the very price he
" ſeems to receive, devolves, *ipſo facto*,
" to his maſter, the inſtant he becomes a
" ſlave. In this caſe, therefore, the
" buyer gives nothing, and the ſeller
" receives nothing: of what validity
" then can a ſale be, which deſtroys the
" very principles upon which all ſales
" are founded? Laſtly we are told, that

" beſides theſe two ways by which ſlaves
" are acquired, they may alſo be here-
" ditary; " *ſervi naſcuntur ;*" the chil-
" dren of acquired ſlaves are, " jure na-
" turæ," by a negative kind of birthright,
" ſlaves alſo.—But *this*, *being built on the*
" *two former rights*, muſt *fall* together
" with them. If neither captivity, nor
" the ſale of one's ſelf, can by the law
" of nature and reaſon reduce the parent
" to ſlavery, *much leſs* can they reduce
" the offſpring." Thus by the moſt clear, manly, and convincing reaſoning does this excellent author refute every claim upon which the practice of ſlavery is founded, or by which it has been ſup-poſed to be juſtified, at leaſt, in modern times. *(g)*. But were we even to admit, that a captive taken in a *juſt war*, might by his conqueror be reduced to a ſtate of ſlavery, this could not juſtify the claim of Europeans to reduce the natives of Africa to that ſtate: it is a melancholy, though well-known fact, that in order to furniſh ſupplies of theſe unhappy people for the purpoſes of the ſlave trade, the Europeans have conſtantly, by the moſt inſidious (I had almoſt ſaid infernal) arts, fomented

(g) Theſe arguments are, in fact, borrowed from the Spirit of Laws.

a kind of perpetual warfare among the ignorant and miſerable people of Africa; and inſtances have not been wanting, where, by the moſt ſhameful breach of faith, they have trepanned and made ſlaves of the *ſellers* as well as the *ſold*. (*h*)

(*h*) "About the ſame time (the reign of queen "Elizabeth) a traffic in the human ſpecies, called "Negroes, was introduced into England, which is "one of the moſt odious and unnatural branches of "trade the ſordid and avaricious mind of mortals ever "invented.—It had been carried on before this period "by Genoeſe traders, who bought a patent from "Charles the fifth, containing an excluſive right of "carrying Negroes from the Portugueſe ſettlements "in Africa, to America and the Weſt Indies; but "the Engliſh nation had not yet engaged in the ini-"quitous traffic.—One William Hawkins, an expert "Engliſh ſeaman, having made ſeveral voyages to the "coaſt of Guinea, and from thence to Brazil and the "Weſt Indies, had acquired conſiderable knowledge "of the countries. At his death he left his journals "with his ſon, John Hawkins, in which he deſcribed "the lands of America and the Weſt Indies as ex-"ceedingly rich and fertile, but utterly neglected for "want of hands to improve them. He repreſented "the natives of Europe as unequal to the taſk in ſuch "a ſcorching climate; but thoſe of Africa as well "adapted to undergo the labours requiſite. Upon "which John Hawkins immediately formed a deſign "of tranſporting Africans into the weſtern world; "and having drawn a plan for the execution of it, he "laid it before ſome of his opulent neighbours for

That ſuch horrid practices have been ſanctioned by a civilized nation; that a

"encouragement and approbation. To them it ap-"peared promiſing and advantageous. A ſubſcription "was opened and ſpeedily filled up, by Sir Lionel "Ducket, Sir Thomas Lodge, Sir William Winter, "and others, who plainly perceived the vaſt profits "that would reſult from ſuch a trade. Accordingly "three ſhips were fitted out, and manned by an hun-"dred ſelect ſailors, whom Hawkins encouraged to "go with him by promiſes of good treatment and "great pay. In the year 1562 he ſet ſail for Africa, "and in a few weeks arrived at the country called "Sierra Leona, where he began his commerce with "the Negroes. While he trafficked with them, he "found the means of giving them a charming deſcrip-"tion of the country to which he was bound; the "unſuſpicious Africans liſtened to him with apparent "joy and ſatisfaction, and ſeemed remarkably fond of "his European trinkets, food, and clothes. He "pointed out to them the barrenneſs of the country, "and their naked and wretched condition, and pro-"miſed if any of them were weary of their miſerable "circumſtances, and would go along with him, he "would carry them to a plentiful land, where they "ſhould *live happy*, and *receive* an abundant *recompence* "for their labours. He told them the country was "inhabited by ſuch men as himſelf and his jovial com-"panions, and *aſſured* them of *kind uſage* and *great* "*friendſhip*. In ſhort, the Negroes were overcome "by his flattering promiſes, and *three hundred* ſtout "fellows accepted his offer, and conſented to embark "along with him. Every thing being ſettled on the "moſt amicable terms between them, Hawkins made

nation ardent in the cauſe of liberty, and enjoying its bleſſings in the fulleſt extent,

" preparations for his voyage. But in the night be-
" fore his departure his Negroes were attacked by a
" large body from a different quarter; Hawkins, being
" alarmed with the ſhrieks and cries of dying perſons,
" ordered his men to the aſſiſtance of his ſlaves, and
" having ſurrounded the aſſailants, carried a number
" of them on board as priſoners of war. The next
" day he ſet ſail for Hiſpaniola with his cargo of
" human creatures; but during the paſſage, he treated
" the priſoners of war in a different manner from his
" volunteers. Upon his arrival he diſpoſed of his cargo
" to great advantage; and endeavoured to inculcate
" on the Spaniards who bought the negroes the ſame
" diſtinction to be obſerved: but they having *purchaſed*
" *all at the ſame rate*, conſidered them as ſlaves of the
" ſame condition, and conſequently treated all alike."

Hawkins having returned to England, ſoon after made preparations for a ſecond voyage. " In his " paſſage he fell in with the Minion man of war, " which accompanied him to the Coaſt of Africa. " After his arrival he began as formerly to traffic with " the Negroes, endeavouring by perſuaſions and " *proſpects* of *reward*, to induce them to go along " with him—but now they were more reſerved and " jealous of his deſigns, and as none of their neigh- " bours had returned, they were apprehenſive he had " killed and eat them The crew of the man of war " obſerving the Africans backward and ſuſpicious, " began to laugh at his gentle and dilatory methods of " proceeding, and propoſed having immediate recourſe " to force and compulſion—but Hawkins conſidered " it as cruel and unjuſt, and tried by perſuaſions, pro-

can continue to vindicate a right eſtabliſhed upon ſuch a foundation; that a peo-

" miſes and threats, to prevail on them to deſiſt from a
" purpoſe ſo unwarrantable and barbarous. In vain
" did he urge his authority and inſtructions from the
" Queen: the bold and headſtrong ſailors would hear
" of no reſtraints. Drunkenneſs and avarice are deaf
" to the voice of humanity. They purſue their violent
" deſign, and, after ſeveral unſucceſsful attacks, in
" which *many* of them loſt their *lives*, the cargo was
" at length compleated by barbarity and force.

" Hence aroſe that horrid and inhuman practice of
" dragging Africans into ſlavery, which has ſince been
" *ſo* purſued, in defiance of every principle of juſtice
" and religion. Had Negroes been brought from the
" flames, to which in ſome countries they were devoted
" on their falling priſoners of war, and in others, ſacri-
" ficed at the funeral obſequies of the great and pow-
" erful among themſelves; in ſhort had they by this
" traffic been delivered from *torture* or *death*, European
" merchants *might have ſome excuſe* to plead in its vindi-
" cation. *But according to the common mode in which it*
" *has been conducted*, we muſt confeſs it a difficult
" matter to conceive a *ſingle* argument in its defence.
" And though policy has given countenance and
" ſanction to the trade, yet every candid and impartial
" man muſt confeſs, that it is atrocious and unjuſtifiable
" in every light in which it can be viewed, and turns
" merchants into a band of robbers, and trade into
" atrocious acts of fraud and violence." Hiſtorical Account of South-Carolina and Georgia. Anonymous. London printed in 1779—page 20, &c.

" The number of Negroe ſlaves bartered for in one
" year (viz. 1768), on the Coaſt of Africa from Cape

ple who have declared, "That *all men* are by nature *equally* * *free* and *independent*," and have made this declaration the first article in the foundation of their government, should in defiance of so sacred a truth, recognized by themselves in so solemn a manner, and on so important an occasion, tolerate a practice incompatible therewith, is such an evidence of the weakness and inconsistency of human nature, as every man who hath a spark of patriotic fire in his bosom must wish to see removed from his own country. If ever there was a cause, if ever an occasion, in which all hearts should be united, every nerve strained, and every power exerted, surely the restoration of human nature to its inalienable right is such. Whatever obstacles, therefore, may hitherto have retarded the attempt, he that can appreciate the honour and happiness of his country, will think it time that we should attempt to surmount them.

* Bill of Rights, art. 1.

But how loudly soever reason, justice,

" Blanco, to Rio Congo, amounted to 104,000 souls, " whereof more than half (viz. 53,000) were shipped " on account of British merchants, and 6,300 on the " account of British Americans." The Law of Retribution by Granville Sharpe, Esq. page 147. note.

and (may I not add) religion, *(i)* condemn the practice of slavery, it is acknowledged to have been very ancient, and almost universal. The Greeks, the Romans, and the ancient Germans also practised it, as well as the more ancient Jews and Egyptians. By the Germans it was transmitted to the various kingdoms which arose in Europe out of the ruins of the Roman empire. In England it subsisted for some ages under the name of *villeinage*. *(k)* In Asia it seems to have

(i) See the various tracts on this subject, by Granville Sharpe, Esq. of London.

(k) The condition of a *villein* had most of the incidents I have before described in giving the idea of *slavery*, in general. His services were uncertain and indeterminate, such as his lord thought fit to require; or as some of our ancient writers express it, he knew not in the evening what he was to do in the morning, he was bound to do whatever he was commanded. He was liable to beating, imprisonment, and every other chastisement his lord could devise, except killing and maiming. He was incapable of acquiring property for his own benefit; he was himself the subject of property; as such saleable and transmissible. If he was a villein regardant he passed with the land to which he was annexed, but might be severed at the will of his lord; if he was a villein in gross, he was an hereditament, or a chattel real, according to his lord's interest; being descendible to the heir, where the lord was absolute *owner*, and transmissible to the

been general, and in Africa univerſal, and ſo remains to this day: In Europe it hath long ſince declined; its firſt declenſion there, is ſaid to have been in Spain,

executor where the lord had only a term of years in him. Laſtly, the ſlavery extended to the iſſue, if the father was a villein, our law deriving the condition of the child from that of the father, contrary to the Roman law, in which the rule was, *partus ſequitur ventrem*. Hargrave's Caſe of Negroe Somerſet, page 26 and 27.

The ſame writer refers the origin of vaſſalage in England, principally to the wars between the Britiſh, Saxon, Daniſh, aad Norman nations, contending for the ſovereignty of that country, in oppoſition to the opinion of judge Fitzherbert, who ſuppoſes villeinage to have commenced at the conqueſt. Ib. 27, 28. And this he proves from Spelman and other antiquaries. Ib. The writ *de nativo habendo*, by which the lord was enabled to recover his villein that had abſconded from him, creates a preſumption that all the natives of England were at ſome period reduced to a ſtate of villeinage, the word *nativus*, which ſignified a villein, moſt clearly deſignating the perſon meant thereby to be a *native*: this etymon is obvious, as well from the import of the word *nativus*, as from the hiſtory of the more remote ages of Britain. Sir Edward Coke's Etymology, "*quia plerumque naſcuntur ſervi*," is one of thoſe puerile conceits, which ſo frequently occur in his works, and are unworthy of ſo great a man.

Barrington in his obſervations upon *magna carta*, c. 4. obſerves, that the villeins who held by ſervile tentures were conſidered as ſo many negroes on a ſugar plantation; the words "*liber homo*," in magna carta,

ſo early as the eighth century; and it is alleged to have been general about the middle of the fourteenth, and was near expiring in the ſixteenth, when the diſcovery of the American continent, and the eaſtern and weſtern coaſts of Africa gave riſe to the introduction of a new ſpecies of ſlavery. It took its origin from the Portugueſe, who, in order to ſupply the Spaniards with perſons able to ſuſtain the fatigue of cultivating their new poſſeſſions in America, particularly the iſlands, opened a trade between Africa and America for the ſale of Negroes, about the year 1508. The expedient of having ſlaves for

c. 14. with all deference to ſir Edward Coke, who ſays they mean a *free-holder*, I underſtand as meaning a *free man*, (1) as contradiſtinguiſhed from a *villein*; for in the very next ſentence the words et *villanus* alterius quam noſter," occur. Villeins muſt certainly have been numerous at that day, to have obtained a place in the Great Charter. It is no leſs an evidence that their condition was in a ſtate of melioration.

In Poland, at this day, the peaſants ſeem to be in an abſolute ſtate of ſlavery, or at leaſt of villeinage, to the nobility, who are the land-holders.

(1) Liber homo, &c. the title of *freeman* was formerly *confined* to the *nobility* and *gentry* who were *deſcended* of free anceſtors.—Burgh's Political Diſquiſitions, vol. iii. p. 400, who cites Spelman's Gloſſary, voc. Liber homo.

labour was not long peculiar to the Spaniards, being afterwards adopted by other European colonies: * and though ſome attempts have been made to ſtop its progreſs in moſt of the United States, and ſeveral of them have the faireſt proſpects of ſucceſs in attempting the extirpation of it, yet in others, it hath taken ſuch deep root, as to require the moſt ſtrenuous exertions to eradicate it.

* Hargrave, ib.

The firſt introduction of Negroes into Virginia happened, as we have already mentioned, in the year 1620; from that period to the year 1662, there is no compilation of our laws, in print, now to be met with. In the reviſion made in that year, we find an act declaring that no Engliſhman, trader, or other, who ſhall bring in any Indians as ſervants and aſſign them over to any other, ſhall ſell them for *ſlaves*, nor for any other time than Engliſh of like age ſhould ſerve by act of aſſembly. † The ſucceeding ſeſſion all children born in this country were declared to be bond, or free, according to the condition of the mother. ‡ In 1667 it was declared, "That the "conferring of baptiſm doth not alter the "condition of the perſon baptized, as to "his bondage or freedom." § This was

† 1662. c. 136.

‡ 1662. Seſſ. d. c. 12.

§ 1667. c. 2.

done, "that divers maſters freed from "this doubt may more carefully endea-"vour the propagating of Chriſtianity, "by permitting their ſlaves to be bap-"tized." It would have been happy for this unfortunate race of men if the ſame tender regard for their bodies, had always manifeſted itſelf in our laws, as is ſhewn for their ſouls in this act. But this was not the caſe; for two years after, we meet with an act, declaring, "That if any ſlave reſiſt his maſter, or others, by his maſter's orders correcting him, and by the extremity of the correction ſhould chance to die, ſuch death ſhould not be accounted felony: but the maſter or other perſon appointed by his maſter to puniſh him, be acquit from moleſtation: *ſince it could not be preſumed that prepenſive malice*, which alone makes *murder felony*, ſhould induce any man to deſtroy his own eſtate." *(I)* This cruel and tyrannical

(I) Among the Iſraelites, according to the Moſaical law, "If a man ſmote his ſervant, or his maid, with a rod, and he died under his hand, he ſhould ſurely be puniſhed—notwithſtanding if he continue a day or two, he ſhould not be puniſhed:" * for, ſaith the text, he is *his money*. Our legiſlators appear to have adopted the reaſon of the latter clauſe, without the humanity of the former part of the law.

* Exod. c. 21.

act, was, at three different periods * re-enacted, with very little alteration; and was not finally repealed till the year 1788 †—above a century after it had first disgraced our code. In 1668 we meet with the first traces of emancipation, in an act which subjects Negroe women set free to the tax on titheables. ‡ Two years after, § an act passed prohibiting *Indians* or Negroes, manumitted, or otherwise set free, though baptized, from purchasing Christian servants. ‖ From this act it is evident that *Indians* had *before* that time been made slaves, as well as Negroes, though we have no traces of the original act by which they were reduced to that condition. An act of the same session recites that disputes had arisen whether Indians taken in war by any other nation, and by that nation sold to the English, are servants for *life*, or for a term of years; and declaring that all *servants*, not being Christians, imported into this country by *shipping*, shall be *slaves* for their life-time; but that what shall come by land, shall serve, if boys and girls, until thirty years of age; if men and women twelve years, and no longer. On a rupture with the Indians in the year 1679 it was, for the *better encouragement*

* 1705. c. 49. 1723. c. 4. 1748. c. 31.

† 1788. c. 23.

‡ 1668. c. 7.

§ 1670. c. 5.

‖ 1670. c. 12.

of soldiers, declared that what *Indian* prisoners should be *taken in war* should be free purchase to the soldier *taking* them. * Three years after it was declared that all *servants* brought into this country by sea or land, not being Christians, whether Negroes, Moors, mulattoes or Indians, except Turks and Moors in amity with Great Britain, and all Indians which should thereafter be sold by neighbouring Indians, or any others trafficking with us, as slaves, should be slaves to all intents and purposes. † This act was re-enacted in the year 1705, and afterwards in 1753, ‡ nearly in the same terms. In 1705 an act was made, authorising a free and open trade for all persons, at all times, and at all places, with all Indians whatsoever. § On the authority of this act, the general court in April term 1787 decided that no Indians brought into Virginia since the passing thereof, nor their descendants, can be slaves in this commonwealth. *(m)*

* 1679. c. 1.

† 1682. c. 1.

‡ 1705. c. 49. 1753. c. 2.

§ 1705. c. 52.

(m) Hannah and other Indians, against Davis.—Since this adjudication, I have met with a manuscript act of assembly made in 1691. c. 9. entituled, "An Act for a free Trade with Indians," the enacting clause of which is in the very words of the act of 1705. c. 52. A similar title to an act of that session occurs in the edition of 1733. p. 94. and the chapter is numbered as in the manuscript. If this manuscript be authentic

In October 1778 the general aſſembly paſſed the firſt act which occurs in our code for prohibiting the importation of
1778. ſlaves;* thereby declaring that no ſlave
I. ſhould thereafter be brought into this commonwealth by land, nor by water; and that every ſlave imported contrary thereto, ſhould upon ſuch importation be free; with an exception as to ſuch as might belong to perſons migrating from the other ſtates, or be claimed by deſcent, deviſe, or marriage, or be at that time the actual property of any citizen of this commonwealth, reſiding in any other of the United States, or belonging to travellers making a tranſient ſtay, and carrying their ſlaves away with them.—In 1785 this act unfortunately underwent ſome alteration, by declaring that ſlaves thereafter brought into this commonwealth, and kept therein one whole *year together*, or ſo long at different times as ſhall *amount to a year*, ſhall be free. By

(which there is ſome reaſon to preſume, it being copied in ſome blank leaves at the end of Purvis's edition, and apparently written about the time of the paſſage of the act), it would ſeem that no Indians brought into Virginia for more than a century, nor any of their deſcendents, can be retained in ſlavery in this commonwealth.

this means the difficulty of proving the right to freedom will be not a little augmented: for the fact of the firſt importation, where the right to freedom immediately enſued, might have been always proved without difficulty; but where a ſlave is ſubject to removal from place to place, and his right to freedom is poſtponed for ſo long a time as a whole year, or perhaps ſeveral years, the proviſions in favour of liberty may be too eaſily evaded. The ſame act declares that no perſons ſhall thenceforth be ſlaves in this commonwealth, except ſuch as were ſo on the firſt day of that ſeſſion (Oct. 17th, 1785), and the deſcendants of the females of them. This act was re-enacted in the reviſal made in 1792.* In 1793 an addi- * See acts of 1794, c. 103.
tional act paſſed, authoriſing and requiring any juſtice of the peace having notice of the importation of any ſlaves, directly or indirectly, from any part of Africa or the Weſt Indies, to cauſe ſuch ſlave to be immediately apprehended and tranſported out of the commonwealth.† Such is the † Edit. of 1794. c. 164.
riſe, progreſs, and preſent foundation of ſlavery in Virginia, ſo far as I have been able to trace it. The preſent number of ſlaves in Virginia, is immenſe, as appears by the cenſus taken in 1791, amounting

to no leſs than 292,427 ſouls: nearly two-fifths of the whole population of the commonwealth. (n) We may conſole ourſelves with the hope that this proportion

(n) Although it be true that the number of ſlaves in the *whole* ſtate bears the proportion of 292,427, to 747,610, the whole number of ſouls in the ſtate, that is, nearly as *two* to *five*; yet this proportion is by no means *uniform* throughout the ſtate. In the forty-four counties lying upon the Bay, and the great rivers of the ſtate, and comprehended by a line including Brunſwick, Cumberland, Goochland, Hanover, Spottſylvania, Stafford, Prince William and Fairfax, and the counties eaſtward thereof, the number of ſlaves is 196,542, and the number of free perſons, including free Negroes and mulattoes, 198,371 only. So that the blacks in that populous and extenſive diſtrict of country are *more numerous* than the whites. In the ſecond claſs, comprehending nineteen counties, and extending from the laſt mentioned line to the Blue Ridge, and including the populous counties of Frederick and Berkeley, beyond the Blue Ridge, there are 82,286 ſlaves, and 136,251 free perſons; the number of free perſons in that claſs not being two to one, to the ſlaves. In the third claſs the proportion is conſiderably increaſed; the eleven counties of which it conſiſts contain only 11,218 ſlaves, and 76,281 free perſons. This claſs reaches to the Allegany ridge of mountains: the fourth and laſt claſs, comprehending fourteen counties weſtward of the third claſs, contains only 2,381 ſlaves, and 42,288 free perſons. It is obvious from this ſtatement that almoſt all the dangers and inconveniences which may be apprehended from a ſtate of ſlavery on the one hand, or an attempt to

will not increaſe, the further importation of ſlaves being prohibited, whilſt the free migrations of white people hither is encouraged. But this hope affords no other relief from the evil of ſlavery, than a diminution of thoſe apprehenſions which are naturally excited by the detention of ſo large a number of oppreſſed individuals among us, and the poſſibility that they may one day be rouſed to an attempt to ſhake off their chains.

Whatever inclination the firſt inhabitants of Virginia might have to encourage ſlavery, a diſpoſition to check its progreſs, and increaſe, manifeſted itſelf in the legiſlature even before the cloſe of the laſt century. So long ago as the year 1669 we find the title of an act, * laying an impoſition upon *ſervants*, and *ſlaves*, imported into this country; which was either continued, reviſed, or increaſed, by a variety of temporary acts, paſſed between that period and the revolution in 1776. (o)—One of theſe acts paſſed in 1723, by a marginal note appears to have been repealed by proclamation, Oct. 24,

* Edit. of 1733. c. 12.

abolish it, on the other, will be confined to the people eaſtward of the blue ridge of mountains.

(o) The following is a liſt of the acts, or titles of acts, impoſing duties on ſlaves imported, which occur

1724. In 1732 a duty of five per cent. was laid on ſlaves imported, to be paid by the buyers; a meaſure calculated to

in the various compilations of our laws, or in the Seſſions Acts, or Journals.

1699, c. 12. title only retained. Edit. of 1733, p. 113
1701, c. 5. the ſame, - - - - - 116
1704, c. 4. the ſame, - - - - - 122
1705, c. 1. the ſame, - - - - - 126
1710, c. 1. the ſame, - - - - - 239
1712, c. 3. the ſame, - - - - - 282
1723, c. 1. repealed by proclamation, - 333
1727, c. 1. enacted with a ſuſpending clauſe, and the royal aſſent refuſed, - - 376
1732, c. 3. printed at large, - - - - 469
1734, c. 3. printed at large in Seſſions Acts.
1736, c. 1. the ſame.
1738, c. 6. the ſame.
1740, c. 2. the ſame.
1742, c. 2. the ſame.

From this period I have not been able to refer to the Seſſions Acts.

1752, c. 1. printed at large in the edit. of 1769, 281
1754, c. 1. the ſame, - - - - - 319
1755, c. 2. Seſſions Acts. Ten per cent. in addition to all former duties.
1759, c. 1. printed at large, edition of 1769, 369
1763, c. 1. Journals of that ſeſſion.
1766, c. 3, 4. printed at large, edit. of 1769, 461, 462
c. 15. additional duty, the title only is printed, being repealed by the crown, Ib. 473
1769, c. 7, 8, and 12. title only printed, edition of 1785, - - - - - 6, 7
1772, c. 15. title only printed, - - Ibidem, 24

render it as little obnoxious as poſſible to the *Engliſh* merchants trading to Africa, and not improbably ſuggeſted by them, to the privy council in England. The preamble to this act is in theſe remarkable words, "We your majeſty's moſt dutiful and loyal ſubjects, &c. taking into our ſerious conſideration the exigencies of your government here, and that the duty laid upon liquors will not be ſufficient to defray the neceſſary expences thereof, do humbly repreſent to your majeſty, that *no other* duty can be laid upon our import or export, without oppreſſing your ſubjects, than a duty upon *ſlaves imported*, to be paid by the buyers, *agreeable to your majeſty's inſtructions* to your lieutenant governor." This act was only for the ſhort period of four years, but ſeems to have been continued from time to time till the year 1751, when the duty expired, but was revived the next year. In the year 1740 an additional duty of five per cent. was impoſed for four years, for the purpoſe of an expedition againſt the Spaniards, &c. to be likewiſe paid by the buyers: and in 1742 the whole duty was continued till July 1, 1747.—The act of 1752, by which theſe duties were revived

and continued (as well as ſeveral former acts), takes notice that the duty had been found *no ways burdenſome to the traders* in ſlaves. In 1754 an additional duty of five per cent. was impoſed for the term of three years, by an act for encouraging and protecting the ſettlers on the Miſſiſippi: this duty, like all the former, was to be paid by the buyers. In 1759 a duty of 20 per cent. was impoſed upon all ſlaves imported into Virginia from Maryland, North Carolina, or other places in America, to continue for ſeven years. In 1769 the ſame duty was further continued. In the ſame ſeſſion the duty of five per cent. was continued for three years, and an additional duty of ten per cent. to be likewiſe paid by the buyers, was impoſed for ſeven years; and a further duty of five per cent. was, by a ſeparate act of the ſame ſeſſion, impoſed for the better ſupport of the contingent charges of government, to be paid by the buyers. In 1772 all theſe duties were further continued for the term of five years from the expiration of the acts then in force: the aſſembly at the ſame time petitioned the throne, (p)

(p) ☞ The following extract from a petition to the throne, preſented from the houſe of burgeſſes of Virginia, April 1, 1772, will ſhew the ſenſe of the people of Virginia on the ſubject of ſlavery at that period.

"The many inſtances of your majeſty's benevolent intentions and moſt gracious diſpoſition to promote the proſperity and happineſs of your ſubjects in the colonies, encourages us to look up to the throne, and implore your majeſty's paternal aſſiſtance in averting a calamity of a moſt alarming nature."

"The importation of ſlaves into the colonies from the coaſt of Africa hath long been conſidered as a trade of great inhumanity, and under its *preſent encouragement*, we have too much reaſon to fear *will endanger the very exiſtence* of your majeſty's American dominions."

"We are ſenſible that ſome of your majeſty's ſubjects of *Great Britain* may reap emoluments from this ſort of traffic, but when we conſider that it greatly retards the ſettlement of the colonies, with *more uſeful* inhabitants, and may, in time, have the moſt deſtructive influence, we preſume to hope that the *intereſt of a few* will be diſregarded when placed in competition with the ſecurity and happineſs of ſuch numbers of your majeſty's dutiful and loyal ſubjects."

Deeply impreſſed with theſe ſentiments, we moſt humbly beſeech your majeſty to *remove all thoſe reſtraints* on your majeſty's governors of this colony, *which inhibit their aſſenting to ſuch laws as might check ſo very pernicious a commerce.*" Journals of the Houſe of Burgeſſes, page 131.

This petition produced no effect, as appears from

to remove all thoſe reſtraints which inhibited his majeſty's governors aſſenting to ſuch *laws as might check ſo very pernicious a commerce*, as that of ſlavery.

In the courſe of this enquiry it is eaſy to trace the deſire of the legiſlature to put a ſtop to the further importation of ſlaves; and had not this deſire been uniformly oppoſed on the part of the crown, it is highly probable that event would have taken effect at a much earlier period than it did. A duty of five per cent. to be paid by the buyers, at firſt, with difficulty obtained the royal aſſent. Requiſitions from the crown for aids, on particular occaſions, afforded a pretext from time to time for increaſing the duty from five, to ten, and finally to twenty per cent. with which the *buyer* was uniformly made chargeable. The wiſhes of the people of this colony, were not ſufficient to counterbalance the intereſt of the Engliſh merchants, trading to Africa, and it is probable, that however diſpoſed to put a ſtop to ſo infamous a traffic by law, we ſhould never have been able to effect it, ſo long as we might have continued dependant on the Britiſh government: an object ſufficient of itſelf to juſtify a

the firſt clauſe of our CONSTITUTION, where among other acts of miſrule, "the inhuman uſe of the royal negative" in refuſing us permiſſion to exclude ſlaves from among us by law, is enumerated, among the reaſons for *ſeparating from Great Britain.*

revolution. That the legiſlature of Virginia were *ſincerely* diſpoſed to put a ſtop to it, cannot be doubted; for even during the tumult and confuſion of the revolution, we have ſeen that they availed themſelves of the earlieſt opportunity, to cruſh for ever ſo pernicious and infamous a commerce, by an act paſſed in October 1778, the penalties of which, though apparently leſſened by the act of 1792, are ſtill equal to the value of the ſlave; being two hundred dollars upon the importer, and one hundred dollars upon every perſon buying or ſelling an imported ſlave.

A ſyſtem uniformly perſiſted in for nearly a whole century, and finally carried into effect, ſo ſoon as the legiſlature was unreſtrained by "the inhuman exerciſe of the royal negative," evinces the ſincerity of that diſpoſition which the legiſlature had ſhewn during ſo long a period, to put a check to the growing evil. From the time that the duty was raiſed above five per cent. it is probable that the importation of ſlaves into this colony decreaſed. The demand for them in the more ſouthern colonies probably contributed alſo to leſſen the numbers imported into this: for ſome years immediately preceding the revolution, the importation of

ſlaves into Virginia might almoſt be conſidered as at an end; and probably would have been entirely ſo, if the ingenuity of the merchant had not found out the means of evading the heavy duty, by pretended ſales, at which the ſlaves were bought in by ſome friend, at a quarter of their real value.

Tedious and unentertaining as this detail may appear to all others, a citizen of Virginia will feel ſome ſatisfaction at reading ſo clear a vindication of his country, from the opprobrium, but too laviſhly beſtowed upon her of foſtering ſlavery in her boſom, whilſt ſhe boaſts a ſacred regard to the liberty of her citizens, and of mankind in general. The acrimony of ſuch cenſures muſt abate, at leaſt in the breaſts of the candid, upon an impartial review of the ſubject here brought before them; and if in addition to what we have already advanced, they conſider the difficulties attendant on any plan for the abolition of ſlavery, in a country where ſo large a proportion of the inhabitants are ſlaves; and where a ſtill larger proportion of the cultivators of the earth are of that deſcription of men, they will probably feel emotions of ſympathy and compaſſion, both for the ſlave and for

his maſter, ſucceed to thoſe haſty prejudices, which even the beſt diſpoſitions are not exempt from contracting, upon ſubjects where there is a deficiency of information.

We are next to conſider the condition of ſlaves in Virginia, or the legal conſequences attendant on a ſtate of ſlavery in this commonwealth; and here it is not my intention to notice thoſe laws, which conſider ſlaves, merely as *property*, and have from time to time been enacted to regulate the diſpoſition of them, *as ſuch*; for theſe will be more properly conſidered elſewhere: my intention at preſent is therefore to take a view of ſuch laws, only, as regard ſlaves, as a diſtinct claſs of *perſons*, whoſe rights, if indeed they poſſeſs any, are reduced to a much narrower compaſs, than thoſe, of which we have been ſpeaking before.

Civil rights, we may remember, are reducible to three primary heads; the right of perſonal ſecurity; the right of perſonal liberty; and the right of private property. In a ſtate of ſlavery the two laſt are wholly aboliſhed, the perſon of the ſlave being at the abſolute diſpoſal of his maſter; and property, what he is incapable, in that ſtate, either of acquiring,

or holding, to his own uſe. Hence it will appear how perfectly irreconcilable a ſtate of ſlavery is to the principles of a democracy, which form the *baſis* and *foundation* of our government. For our bill of rights declares, "that all men are by "nature *equally free* and independent, "and have certain rights of which they "cannot deprive or diveſt their poſterity "—namely, the enjoyment of life and "*liberty*, with the means of *acquiring* "and *poſſeſſing property*." This is indeed no more than a recognition of the firſt principles of the law of nature, which teaches us this equality, and enjoins every man, whatever advantages he may poſſeſs over another, as to the various qualities or endowments of body or mind, to practice the precepts of the law of nature to thoſe who are in theſe reſpects his *inferiors*, no leſs than it enjoins his *inferiors* to practiſe them towards *him*. Since he has no more right to inſult *them*, than they have to injure him. Nor does the *bare unkindneſs of nature* or of fortune condemn a man to a *worſe* condition than others, as to the enjoyment of common privileges.* It would be hard to reconcile reducing the Negroes to a ſtate of ſlavery to theſe principles, unleſs we firſt

* Spavan's Puff. vol. 1. c. 17.

degrade them below the rank of human beings, not only politically, but alſo phyſically and morally.—The Roman lawyers look upon thoſe only properly as *perſons*, who are *free*, putting *ſlaves* into the rank of *goods* and *chattels*; and the policy of our legiſlature, as well as the practice of ſlave-holders in America in general, ſeems conformable to that idea: but ſurely it is time we ſhould admit the evidence of moral truth, and learn to regard them as our fellow men, and equals, except in thoſe particulars where accident, or perhaps nature, may have given us ſome advantage; a recompence for which, they perhaps enjoy in other reſpects.

Slavery, ſays Hargrave, always imports an obligation of perpetual ſervice, which only the conſent of the maſter can diſſolve: it alſo generally gives to the maſter an arbitrary power of adminiſtring every ſort of correction, however inhuman, not immediately affecting life or limb, and even theſe in ſome countries, as formerly in Rome, and at this day among the Aſiatics and Africans, are left expoſed to the arbitrary will of a maſter, or protected only by fines or other ſlight puniſhments. The property of the ſlave

alſo is abſolutely the property of his maſter, the ſlave himſelf being the ſubject of property, and as ſuch ſaleable, or tranſmiſſible at the will of his maſter.—A ſlavery, ſo malignant as that deſcribed, does not leave to its wretched victims the leaſt veſtige of any civil right, and even diveſts them of all their natural rights. It does not, however, appear, that the rigours of ſlavery in this country were ever as great, as thoſe above deſcribed: yet it muſt be confeſſed, that, at times, they have fallen very little ſhort of them.

The firſt ſevere law reſpecting ſlaves, now to be met with in our code, is that of 1669, already mentioned, which declared that the death of a ſlave *reſiſting* his maſter, or other perſon correcting him by his order, *happening by extremity of the correction*, ſhould not be accounted felony. The alterations which this law underwent in three ſucceſſive acts, * were by no means calculated effectually to mitigate its ſeverity; it ſeems rather to have been augmented by the act of 1723, which declared that a perſon indicted for the murder of a ſlave, and found guilty of *manſlaughter*, ſhould not incur any puniſhment for the ſame. (q)

* 1705. c. 49. 1723, c. 4. 1748. c. 31.

(q) In December term 1788, one John Huſton

All theſe acts were at length repealed in 1788.* So that homicide of a ſlave ſtands now upon the ſame footing, as in the caſe of any other perſon. In 1672 it was declared lawful for any perſon purſuing any runaway Negroe, mulattoe, Indian ſlave, or *ſervant for life*, by virtue of an *hue and cry*, to kill them in caſe of reſiſtance, without being queſtioned for the ſame.† A few years afterwards this act was extended to perſons *employed to apprehend* runaways.‡ In 1705, theſe acts underwent ſome ſmall alteration; two juſtices being authoriſed by proclamation to *outlaw* runaways, who might thereafter be *killed* and deſtroyed by any perſon whatſoever, by *ſuch ways and means* as he may think fit, without accuſation or impeachment of any crime for ſo doing: § And if any ſuch ſlave were apprehended, he might be puniſhed at the diſcretion of the county court, either by *diſmembering*, or in any other manner *not touching life*.

* 1788. 2. 23.

† 1672. c. 8.

‡ 1680. c. 10.

§ 1705. c. 49.

was tried in the general court for the murder of a ſlave; the jury found him guilty of manſlaughter, and the court, upon a motion in arreſt of judgment, diſcharged him without any puniſhment. The general aſſembly being then ſitting, ſome of the members of the court mentioned the caſe to ſome leading characters in the legiſlature, and the act was at the ſame ſeſſion repealed.

The inhuman rigour of this act was afterwards * extended to the venial offence of going abroad by night, if the slave was *notoriously* guilty of it.—Such are the cruelties to which a state of slavery gives birth; such the horrors to which the human mind is capable of being reconciled, by its adoption. The dawn of humanity at length appeared in the year 1769, when the power of dismembering, even under the authority of a county court, was restricted to the single offence of *attempting* to ravish a white woman, † in which case perhaps the punishment is perhaps not more than commensurate to the crime. In 1772 some restraints were laid upon the practice of outlawing slaves, requiring that it should appear to the *satisfaction* of the justices that the slaves were outlying, and *doing mischief*. ‡ These loose expressions of the act, left too much in the discretion of men, not much addicted to weighing their import.—In 1792, every thing relative to the outlawry of slaves was *expunged* from our code, § and I trust will never again find a place in it. By the act of 1680, a Negroe, mulattoe, or Indian, bond or *free*, presuming to lift his hand in opposition to any Christian, should receive thirty lashes on his bare

* 1723. c. 4. 1748. c. 31.

† 1769. c. 19.

‡ 1772. c. 9.

§ Edit. 1794. c. 103.

back for every offence. * The same act prohibited slaves from carrying any club, staff, gun, sword, or other weapon, offensive or defensive. This was afterwards extended to all Negroes, mulattoes and Indians whatsoever, with a few exceptions in favour of housekeepers, residents on a frontier plantation, and such as were enlisted in the militia. † Slaves, by these and other acts, ‡ are prohibited from going abroad without leave in writing from their masters, and if they do, may be whipped: any person suffering a slave to remain on his plantation for four hours together, or dealing with him without leave in writing from his master, is subject to a fine. A runaway slave may be apprehended and committed to jail, and if not claimed within three months (being first advertised) he shall be hired out, having an iron collar first put about his neck: and if not claimed within a year shall be sold. § These provisions were in general re-enacted in 1792, ‖ but the punishment to be inflicted on a Negroe or mulattoe, for lifting his hand against a white person, is restricted to those cases, where the former is not wantonly assaulted. In this act the word Indian appears to have been designedly omitted: the

* 1680. c. 10. 1705. c.

† 1723. c. 4.

‡ 1705. c. 49. 1723. c. 4. 1748. c. 31. 1753. c. 2. 1785. c. 77.

§ 1753. c. 2.

‖ Edit. of 1794. c. 103. 131.

ſmall number of theſe people, or their deſcendants remaining among us, concurring with a more liberal way of thinking, probably gave occaſion to this circumſtance. The act of 1748, c. 31, made it felony without benefit of clergy for a ſlave to prepare, exhibit, or adminiſter any medicine whatever, without the order or conſent of the maſter; but *allowed clergy* if it appeared that the medicine was not adminiſtered with an *ill intent*; the act of 1792, with more juſtice, directs that in ſuch caſe he ſhall be acquitted. * To conſult, adviſe, or conſpire, to rebel, or to plot, or conſpire the death of any perſon whatſoever, is ſtill felony without benefit of clergy in a ſlave. † —Riots, routs, unlawful aſſemblies, treſpaſſes and ſeditious ſpeeches by ſlaves, are puniſhable with ſtripes, at the diſcretion of a juſtice of the peace. ‡ —The maſter of a ſlave permitting him to go at large and trade as a freeman, is ſubject to a fine; § and if he ſuffers the ſlave to hire himſelf out, the latter may be ſold, and twenty-five per cent. of the price be applied to the uſe of the county. —Negroes and mulattoes, whether ſlaves or not, are incapable of being witneſſes, but againſt, or between Negroes and mulattoes; they are not permitted to intermarry with any white perſon; yet no puniſhment is annexed to the offence in the ſlave; nor is the marriage void; but the white perſon contracting the marriage, and the clergyman by whom it is celebrated are liable to fine and impriſonment; and this is probably the only inſtance in which our laws will be found more favourable to a Negroe than a white perſon. Theſe proviſions though introduced into our code at different periods, were all re-enacted in 1792. *

* Edit. 1794. c. 103.

† 1748. c. 31. 1794. c. 103.

‡ 1785. c 77. 1794. c. 103.

§ 1769. c. 19. May. 1782. c. 32. 1794. Ib.

From this melancholy review it will appear that not only the right of property, and the right of perſonal liberty, but even the right of perſonal ſecurity, has been, at times, either wholly annihilated, or reduced to a ſhadow: and even in theſe days, the protection of the latter ſeems to be confined to very few caſes. Many actions, indifferent in themſelves, being permitted by the law of nature to all mankind, and by the laws of ſociety to all free perſons, are either rendered highly criminal in a ſlave, or ſubject him to ſome kind of puniſhment or reſtraint. Nor is it in this reſpect only, that his condition is rendered thus deplorable by law. The meaſure of puniſhment for the ſame offence, is often, and the manner of trial

* Edit. of 1794. c. 103.

and conviction is always, different in the caſe of a ſlave, and a free-man. If the latter be accuſed of any crime, he is entitled to an examination before the court of the county where the offence is alleged to have been committed; whoſe deciſion, if in his favour, is held to be a legal and final acquittal, but it is not final if againſt him; for after this, both a grand jury, and a petit jury of the county, muſt ſucceſſively pronounce him guilty; the former by the concurrent voices of twelve at leaſt, of their body, and the latter, by their unanimous verdict upon oath. He may take exception to the proceedings againſt him, by a motion in arreſt of judgment; and in this caſe, or if there be a ſpecial verdict, the ſame unanimity between his judges, as between his jurors, is neceſſary to his condemnation. Laſtly, though the puniſhment which the law pronounces for his offence amount to death itſelf, he ſhall in many caſes have the benefit of clergy, unleſs he has before received it. But in the caſe of a ſlave, the mode was formerly, and ſtill remains eſſentially different. How early this diſtinction was adopted I have not been able to diſcover. The title of an act occurs, which paſſed in the year 1705 * for the

* 1705. c. 11.

ſpeedy and *eaſy* proſecution of ſlaves committing capital crimes. In 1723 * the governor was authorized, whenever any ſlave was committed for any capital offence, to iſſue a ſpecial commiſſion of oyer and terminer, to *ſuch perſons as he ſhould think fit*, the number being left to his diſcretion, who ſhould thereupon proceed to the trial of ſuch ſlave, taking for evidence the confeſſion of the defendant, the oath of one or more credible witneſſes, or ſuch teſtimony of Negroes, mulattoes, or Indians, bond or free, with pregnant circumſtances, as to them ſhould ſeem convincing, without the ſolemnity of a jury. No exception, formerly, could be taken to the proceedings, on the trial of a ſlave, † but that proviſo is omitted in the act of 1792, and the juſtices moreover ſeem bound to allow him counſel for his defence, whoſe fee ſhall be paid by his maſter. ‡ In caſe of conviction, execution of the ſentence was probably very ſpeedily performed, ſince the act of 1748, provides that, thereafter, it ſhould not be performed in leſs than ten days, except in caſe of inſurrection or rebellion; and further, that if the court be divided in opinion the accuſed ſhould be acquitted. In 1764, an act paſſed, authorizing general,

* 1723. c. 4.

† 1748. c. 31.

‡ Edit. 1794. c. 103.

inſtead of ſpecial, commiſſioners of oyer and terminer,* conſtituting all the juſtices of any county, judges for the trial of ſlaves, committing capital offences, within their reſpective counties; any four of whom, one being of the quorum, ſhould conſtitute a court for that purpoſe. In 1772 one ſtep further was made in favour of humanity, by an act declaring that no ſlave ſhould thereafter be condemned to die unleſs four of the court ſhould concur in opinion of his guilt.† The act of 1786, c. 58, confirmed by that of 1792, conſtitutes the juſtices of every county and corporation juſtices of oyer and terminer for the trial of ſlaves;‡ requires *five* juſtices, at leaſt, to conſtitute a court, and *unanimity* in the court for his condemnation; allows him counſel for his defence, to be paid by his owner, and, I apprehend, admits him to object to the proceedings againſt him; and finally enlarges the time of execution to *thirty* days, inſtead of ten (except in caſes of conſpiracy, inſurrection, or rebellion), and extends the benefit of clergy to him in all caſes, where any other perſon ſhould have the benefit thereof, except in the caſes before mentioned.

* 1764. c. 9.

† 1772. c. 9.

‡ Edit. 1794. c. 103.

To an attentive obſerver theſe gradual,

and almoſt imperceptible amendments in our juriſprudence reſpecting ſlaves, will be found, upon the whole, of infinite importance to that unhappy race. The mode of trial in criminal caſes, eſpecially, is rendered infinitely more beneficial to them, than formerly, though perhaps ſtill liable to exception for want of the aid of a jury: the ſolemnity of an oath adminiſtered the moment the trial commences, may be conſidered as operating more forcibly on the mind, than a general oath of office, taken, perhaps, twenty years before. Unanimity may alſo be more readily expected to take place among *five* men, than among *twelve*. Theſe objections to the want of a jury are not without weight: on the other hand it may be obſerved, that if the number of triers be not equal to a full jury, they may yet be conſidered as more ſelect; a circumſtance of infinitely greater importance to the ſlave. The unanimity requiſite in the court in order to conviction, is a more happy acquiſition to the accuſed, than may at firſt appear; the opinions of the court muſt be delivered openly, immediately, and ſeriatim, beginning with the youngeſt judge. A ſingle voice in favour of the accuſed, is an acquittal; for unanimity is not ne-

ceſſary, as with a jury, to acquit, as well as to condemn: there is leſs danger in this mode of trial, where the ſuffrages are to be openly delivered, that a few will be brought over to the opinion of the majority, as may too often happen among jurors, whoſe deliberations are in *private*, and whoſe impatience of confinement may go further than real conviction, to produce the requiſite unanimity. That this happens not unfrequently in civil caſes, there is too much reaſon to believe; that it may alſo happen in criminal caſes, eſpecially where the party accuſed is not one of their equals, might, not unreaſonably, be apprehended. In New-York, before the revolution, a ſlave accuſed of a capital crime, ſhould have been tried by a jury if his maſter required it. This is, perhaps, ſtill the law of that ſtate. Such a proviſion might not be amiſs in this; but conſidering the ordinary run of juries in the county-courts, I ſhould preſume the privilege would be rarely inſiſted upon.

Slaves, we have ſeen, are now entitled to the benefit of clergy in all caſes where it is allowed to any other offenders, except in caſes of conſulting, adviſing, or conſpiring to rebel, or make inſurrection;

or plotting or conſpiring to murder any perſon; or preparing, exhibiting, or adminiſtring medicine with an *ill* intent. The ſame lenity was not extended to them formerly. The act of 1748, c. 31, denied it to a ſlave in caſe of manſlaughter; or the felonious breaking and entering *any* houſe, in the night time: or breaking and entering *any* houſe in the day time, and taking therefrom goods to the value of twenty ſhillings. The act of 1764, c. 9, extended the benefit of clergy, to a ſlave convicted of the manſlaughter of a ſlave; and the act of 1772, c. 9, extended it further, to a ſlave convicted of houſe-breaking in the night time, unleſs ſuch breaking be burglary; in the latter caſe, other offenders would be equally deprived of it. But wherever the benefit of clergy is allowed to a ſlave, the court, beſides burning him in the hand (the uſual puniſhment inflicted on free perſons) may inflict ſuch further corporal puniſhment as they may think fit; * this alſo ſeems to be the law in the caſe of free Negroes and mulattoes. By the act of 1723, c. 4, it was enacted, that when *any Negroe* or *mulattoe* ſhall be found, upon due proof made, or *pregnant circumſtances*, to have given falſe teſtimony, every ſuch offender

* 1794. c. 103.

ſhall, *without further trial*, have his ears ſucceſſively nailed to the pillory for the ſpace of an hour, and then cut off, and moreover receive thirty-nine laſhes on his bare back, or ſuch other puniſhment as the court ſhall think proper, not extending to life or limb. This act, with the exception of the words *pregnant circumſtances*, was re-enacted in 1792. The puniſhment of perjury, in a *white* perſon, is only a fine and impriſonment. A ſlave convicted of hog-ſtealing, ſhall, for the firſt offence, receive thirty-nine laſhes: any other perſon twenty-five: but the latter is alſo ſubject to a fine of thirty dollars, beſides paying eight dollars to the owner of the hog. The puniſhment for the ſecond and third offence, of this kind, is the ſame in the caſe of a free perſon, as of a ſlave; namely, by the pillory and loſs of ears, for the ſecond offence; the third is declared felony, to which clergy is, however, allowed. The preceding are the only poſitive diſtinctions which now remain between the puniſhment of a ſlave, and a white perſon, in thoſe caſes, where the latter is liable to a determinate corporal puniſhment. But we muſt not forget; that many actions, which are either not puniſhable at all, when perpe-

trated by a white perſon, or at moſt, by fine and impriſonment, only, are liable to ſevere corporal puniſhment, when done by a ſlave; nay, even to death itſelf, in ſome caſes. To go abroad without a written permiſſion; to keep or carry a gun, or other weapon; to utter any ſeditious ſpeech; to be preſent at any unlawful aſſembly of ſlaves; to lift the hand in oppoſition to a white perſon, unleſs wantonly aſſaulted, are all offences puniſhable by whipping. *. To attempt the chaſtity of a white woman, forcibly, is puniſhable by diſmemberment: ſuch an attempt would be a high miſdemeanor in a white free man, but the puniſhment would be far ſhort of that of a ſlave. † To adminiſter medicine without the order or conſent of the maſter, unleſs it *appear not to have been done with an ill intent*; to *conſult*, adviſe, or conſpire, to rebel or make inſurrection; or to *conſpire*, or *plot* to *murder* any perſon, we have ſeen, are all capital offences, from which the benefit of clergy is utterly excluded. But a *bare intention* to commit a felony, is not puniſhable in the caſe of a free white man; and even the attempt, if not attended with an actual breach of the peace, or prevented by ſuch circumſtances, only,

* 1794. c. 103.

† Ibidem.

as do not tend to leſſen the guilt of the offender, is at moſt a miſdemeanor by the common law: and in ſtatutable offences in general, to conſult, adviſe, and even to procure any perſon to commit a felony, does not conſtitute the crime of felony in the adviſer or procurer, unleſs the felony be actually perpetrated.

From this view of our juriſprudence reſpecting ſlaves, we are unavoidably led to remark, how frequently the laws of nature have been ſet aſide in favour of inſtitutions, the pure reſult of prejudice, uſurpation, and tyranny. We have found actions, innocent, or indifferent, puniſhable with a rigour ſcarcely due to any, but the moſt atrocious, offences againſt civil ſociety; juſtice diſtributed by an unequal meaſure to the maſter and the ſlave; and even the hand of mercy arreſted, where mercy might have been extended to the wretched culprit, had his complexion been the ſame with that of his judges: for, the ſhort period of ten days, between his condemnation and execution, was often inſufficient to obtain a pardon for a ſlave, convicted in a remote part of the country, whilſt a free man, condemned at the ſeat of government, and tried before the governor himſelf, in whom the power of pardoning was veſted, had a re-

ſpite of thirty days to implore the clemency of the executive authority.—It may be urged, and I believe with truth, that theſe rigours do not proceed from a ſanguinary temper in the people of Virginia, but from thoſe political conſiderations indiſpenſibly neceſſary, where ſlavery prevails to any great extent: I am moreover happy to obſerve that our police reſpecting this unhappy claſs of people, is not only leſs rigorous than formerly, but perhaps milder than in any other country *(r)* where there are ſo many ſlaves, or ſo large a proportion of them, in reſpect to the free inhabitants: it is alſo, I truſt, unjuſt to cenſure the preſent generation for the exiſtence of ſlavery in Virginia: for I think it unqueſtionably true, that a very large proportion of our fellow-citizens lament that as a misfortune, which is imputed to them as a reproach; it being evident from what has been already ſhewn upon the ſubject, that, *ante-*

(r) See Jefferſon's Notes, 259.—The Marquis de Chatelleux's Travels, I have not noted the page; the Law of Retribution, by Granville Sharpe, pa. 151, 238, notes. The Juſt Limitation of Slavery, by the ſame author; pa. 15, note. Ibidem, pa. 33, 50, Ib. Append. No. 2. Encyclopédie. Tit. Eſclave. Laws of Barbadoes, &c.

cedent to the revolution, no exertion to abolish, or even to check the progress of, slavery, in Virginia, could have received the smallest countenance from the crown, without whose assent the united wishes and exertions of every individual here, would have been wholly fruitless and ineffectual: it is, perhaps, also demonstrable, that at no period since the revolution, could the abolition of slavery in this state have been safely undertaken until the foundations of our newly established governments had been found capable of supporting the fabric itself, under any shock, which so arduous an attempt might have produced. But these obstacles being now happily removed, considerations of policy, as well as justice and humanity, must evince the necessity of eradicating the evil, before it becomes impossible to do it, without tearing up the roots of civil society with it.

Having in the preceding part of this enquiry shewn the origin and foundation of slavery, or the manner in which men have become slaves, as also who are liable to be retained in slavery, in Virginia, at present, with the legal consequences attendant upon their condition; it only remains to consider the mode by which

slaves have been or may be emancipated; and the legal consequences thereof, in this state.—Manumission, among the Israelites, if the bondman were an Hebrew, was enjoined after six years' service, by the Mosaical law, unless the servant chose to continue with his master, in which case the master carried him before the judges, and took an awl, and thrust it through his ear into the door, * and from thenceforth he became a servant for ever: but if he sent him away free, he was bound to furnish him liberally out of his flock, and out of his floor, and out of his wine-press. † Among the Romans, in the time of the commonwealth, liberty could be conferred only three ways. By testament, by the *census*, and by the *vindicta*, or lictor's rod. A man was said to be free by the census, "*liber censu*," when his name was inserted in the censor's roll, with the approbation of his master. When he was freed by the vindicta, the master placing his hand upon the head of the slave, said in the presence of the prætor, it is my desire that this man may be free, "*hunc hominem liberem esse volo*;" to which the prætor replied, I pronounce him free after the manner of the Romans, "*dico cum liberum esse more quiritum.*"—

* Exod. c. 21. Deut. c. 15.

† Ibid.

then the lictor, receiving the *vindicta*, ſtruck the new freed man ſeveral blows with it, upon the head, face, and back, after which his name was regiſtered in the roll of freed-men, and his head being cloſe ſhaved, a cap was given him as a token of liberty. * Under the imperial conſtitutions liberty might have been conferred by ſeveral other methods, as in the face of the church, in the preſence of friends, or by letter, or by teſtament. †—But it was not in the power of every maſter to manumit at will; for if it were done with an intent to defraud creditors, the act was void: that is, if the maſter were inſolvent at the time of manumiſſion, or became inſolvent by manumiſſion, and intentionally manumitted his ſlave for the purpoſe of defrauding his creditors. A minor, under the age of twenty years, could not manumit his ſlave but for a juſt cauſe aſſigned, which muſt have been approved by a council, conſiſting of the prætor, five ſenators, and five knights. ‡—In England, the mode of enfranchiſing villeins is ſaid to have been thus preſcribed by a law of William the Conqueror.

" If any perſon is willing to enfranchiſe
" his *ſlave*, let him, with his right hand,
" deliver the ſlave to the ſheriff in a full,

* Harris's Juſt. in notes.

† Juſt. Inſt. lib. 1. tit. 5. Ib. lib. 1. tit. 6.

‡ Ib. Harris's Juſt. in notes.

" county, proclaim him exempt from the
" bond of ſervitude by manumiſſion,
" ſhew him open gates and ways, and
" deliver him *free arms*, to wit, a lance
" and a ſword; thereupon he is a free
" man." *—But after that period freedom was more generally conferred by deed, of which Mr. Harris, in his notes upon Juſtinian, has furniſhed a precedent.

* Harris's Inſt. in notes.

In what manner manumiſſion was performed in this country during the firſt century after the introduction of ſlavery does not appear: the act of 1668, before mentioned, † ſhews it to have been practiſed before that period. In 1723 an act was paſſed, prohibiting the manumiſſion of ſlaves, upon any pretence whatſoever, except for meritorious ſervices, to be adjudged, and allowed by the governor and council ‡. This clauſe was re-enacted in 1748, and continued to be the law, until after the revolution was accompliſhed. The number of manumiſſions under ſuch reſtrictions muſt neceſſarily have been very few. In May 1782 an act paſſed authorizing, generally, the manumiſſion of ſlaves, but requiring ſuch as might be ſet free, not being of ſound mind or body, or being above the age of

† Ante, p. 36.

‡ 1723. c. 4.

forty-five years, or males under twenty-one, or females under eighteen, to be ſupported by the perſon liberating them, or out of his eſtate.* The act of manumiſſion may be performed either by will, or by deed, under the hand and ſeal of the party, acknowledged by him, or proved by two witneſſes in the court of the county where he reſides. There is reaſon to believe that great numbers have been emancipated ſince the paſſing of this act. By the cenſus of 1791 it appears that the number of free Negroes, mulattoes and Indians in Virginia, was then 12,866. It would be a large allowance, to ſuppoſe that there were 1800 free Negroes and mulattoes in Virginia when the act took effect; ſo that upwards of ten thouſand muſt have been indebted to it for their freedom. (s) The number of Indians and their deſcendants in Virginia

* May 1782. c. 21.

(s) There are *more* free Negroes and mulattoes in Virginia alone, than are to be found in the four New-England ſtates, and Vermont in addition to them. The progreſs of emancipation in this ſtate is therefore much greater than our *Eaſtern* brethren may at firſt ſuppoſe. There are only 1087 free Negroes and mulattoes in the States of New-York, New-Jerſey and Pennſylvania, *more*, than in Virginia. Thoſe who take a ſubject in the groſs, have little idea of the reſult of an exact ſcrutiny. Out of 20,348 inhabitants on

at preſent, is too ſmall to require particular notice. The progreſs of emancipation in Virginia, is at this time continual, but not rapid; a ſecond cenſus will enable us to form a better judgment of it than at preſent. The act paſſed in 1792 accords in ſome degree with the Juſtinian code,* by providing that ſlaves emancipated may be taken in execution to ſatisfy any debt contracted by the perſon emancipating them, before ſuch emancipation is made. (t)

* 1794. c. 103.

the Eaſtern Shore of Virginia 1185 were free Negroes and mulattoes when the cenſus was taken. The number is ſince much augmented.

(t) The act of 1795. c. 11. enacts, that any perſon held in ſlavery may make complaint to a magiſtrate, or to the court of the diſtrict county or corporation wherein he reſides, and not elſewhere. The magiſtrate, if the complaint be made to him, ſhall iſſue his warrant to ſummon the owner before him, and compel him to give bond and ſecurity to ſuffer the complainant to appear at the next court to petition the court to be admitted to ſue *in formâ pauperis*. If the owner refuſe, the magiſtrate ſhall order the complainant into the cuſtody of the officer ſerving the warrant, at the expence of the maſter, who ſhall keep him until the ſitting of the court, and then produce him before it. Upon petition to the court, if the court be ſatisfied as to the material facts, they ſhall aſſign the complainant council, who ſhall ſtate the facts with his opinion thereon to the court; and unleſs from the circumſtances ſo

Among the Romans, the *libertini*, or freedmen, were formerly diſtinguiſhed by a threefold diviſion.* They ſometimes obtained what was called the greater liberty, thereby becoming *Roman citizens*. To this privilege, thoſe who were enfranchiſed by teſtament, by the cenſus, or by the vindicta, appear to have been alone admitted: ſometimes they obtained the leſſer liberty only, and became *Latins*; whoſe condition is thus deſcribed by Juſtinian. "They never enjoyed the right "of ſucceſſion [to eſtates].—For al- "though they led the lives of free men, "yet with their laſt breath they loſt both "their lives and liberties; for their poſ- "ſeſſions, like the goods of ſlaves, were "detained by the manumittor."† Sometimes they obtained only the inferior liber-

* Juſt. Inſt. lib. 1. tit. 5.

† Harris's Inſt. lib. 3. tit. 8.

ſtated, and the opinion thereon given, the court ſhall *ſee manifeſt reaſon to deny their interference*, they ſhall order the clerk to iſſue proceſs againſt the owner, and the complainant ſhall remain in the cuſtody of the ſheriff until the owner ſhall give bond and ſecurity to have him forthcoming to anſwer the judgment of the court. And by the general law in caſe of pauper's ſuits, the complainants ſhall have writs of ſubpœna gratis; and by the practice of the courts, he is permitted to attend the taking the depoſitions of witneſſes, and go and come freely to and from court, for the proſecution of his ſuit.

ty, being called *dedititii*: ſuch were ſlaves who had been condemned as criminals, and afterwards obtained manumiſſion through the indulgence of their maſters: their conditions was equalled with that of conquered revolters, whom the Romans called, in reproach, *dedititii*, *quia ſe ſuaque omnia dediderunt*; but all theſe diſtinctions were aboliſhed by Juſtinian,* by whom all freed men in general were made citizens of Rome, without regard to the form of manumiſſion.—In England, the preſenting the villein with *free arms*, ſeems to have been the ſymbol of his reſtoration to all the rights which a feudatory was entitled to. With us, we have ſeen that emancipation does not confer the rights of citizenſhip on the perſon emancipated; on the contrary, both he and his poſterity, of the ſame complexion with himſelf, muſt always labour under many civil incapacities. If he is abſolved from perſonal reſtraint, or corporal puniſhment, by a maſter, yet the laws reſtrain his actions in many inſtances, where there is none upon a free white man. If he can maintain a ſuit, he cannot be a witneſs, a juror, or a judge in any controverſy between one of his own complexion and a white perſon. If he can

* Inſt. lib. 1. tit. 5. ſ. 3.

acquire property in lands, he cannot exercise the right of ſuffrage, which ſuch a property would confer on his former maſter; much leſs can he aſſiſt in making thoſe laws by which he is bound. Yet, even under theſe diſabilities, his preſent condition bears an enviable pre-eminence over his former ſtate. Poſſeſſing the liberty of loco-motion, which was formerly denied him, it is in his choice to ſubmit to that civil inferiority, inſeparably attached to his condition in this country, or ſeek ſome more favourable climate, where all diſtinctions between men are either totally aboliſhed, or leſs regarded than in this.

The extirpation of ſlavery from the United States, is a taſk equally arduous and momentous. To reſtore the bleſſings of liberty to near a million *(u)* of oppreſſed individuals, who have groaned under the yoke of bondage, and to their deſcendants, is an object, which thoſe who truſt in Providence, will be convinced would not be unaided by the divine Author of our being, ſhould we invoke his bleſſing upon our endeavours.

(u) The number of ſlaves in the United States at the time of the late cenſus, was ſomething under 700,000.

Yet human prudence forbids that we ſhould precipitately engage in a work of ſuch hazard as a general and ſimultaneous emancipation. The mind of man muſt in ſome meaſure be formed for his future condition. The early impreſſions of obedience and ſubmiſſion, which ſlaves have received among us, and the no leſs habitual arrogance and aſſumption of ſuperiority, among the whites, contribute, equally, to unfit the former for *freedom*, and the latter for *equality*. *(v)* To expel

(v) Mr. Jefferſon moſt forcibly paints the unhappy influence on the manners of the people produced by the exiſtence of ſlavery among us. "The whole commerce between maſter and ſlave, ſays he, is a perpetual exerciſe of the moſt boiſterous paſſions, the moſt unremitting deſpotiſm on the one part, and degrading ſubmiſſions on the other. Our children ſee this, and learn to imitate it; for man is an imitative animal. This quality is the germ of education in him. From his cradle to his grave he is learning what he ſees others do. If a parent had no other motive either in his own philanthropy or his ſelf-love, for reſtraining the intemperance of paſſion towards his ſlave, it ſhould always be a ſufficient one that his child is preſent. But generally it is not ſufficient. The parent ſtorms, the child looks on, catches the lineaments of wrath, puts on the ſame airs in the circle of ſmaller ſlaves, gives a looſe to his worſt of paſſions; and thus nurſed, educated, and daily exerciſed in tyranny, cannot but be ſtamped by it with odious peculiarities. The man

them all at once, from the United States, would in fact be to devote them only to

must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execrations would the statesman be loaded, who permitting one half the citizens thus to trample on the rights of the other, transforms them into despots, and these into enemies, destroys the morals of the one part, and the amor patriæ of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labour for another: in which he must lock up the faculties of his nature, contribute as far as depends on his individual endeavours to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him. With the morals of the people, their industry also, is destroyed. For in a warm climate, no man will labour for himself who can make another labour for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labour. And can the liberties of a nation be ever thought secure when we have removed their only firm basis, a conviction in the minds of the people, that these liberties are of the gift of God? That they are not to be violated but with his wrath? Indeed I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever; that considering numbers, nature, and natural means only, a revolution of the wheel of fortune, an exchange of situation is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest.—But it is impossible to be temperate and to pursue this subject through the va-

a lingering death by famine, by disease, and other accumulated miseries: "We "have in history but one picture of a si- "milar enterprize, and there we see it "was necessary not only to open the sea "by a miracle, for them to pass, but more "necessary to close it again to prevent "their return. * To retain them among us, would be nothing more than to throw so many of the human race upon the earth without the means of subsistence: they would soon become idle, profligate, and miserable. Unfit for their new condition, and unwilling to return to their former laborious course, they would become the caterpillars of the earth, and the tigers of the human race. The recent history of the French West Indies exhibits a melancholy picture of the probable consequences of a general, and momentary

* Letter from Jas. Sullivan, Esq. to Dr. Belknap.

rious considerations of policy, of morals, of history, natural and civil. We must be contented to hope they will force their way into every one's mind. I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust; his condition mollifying; the way I hope preparing, under the auspices of Heaven, for a total emancipation, and that this is disposed in the order of events, to be with the consent of their masters, rather than by their extirpation. Notes on Virginia, 298.

emancipation in any of the ſtates, where ſlavery has made conſiderable progreſs. In Maſſachuſetts the abolition of it was effected by a ſingle ſtroke; a clauſe in their conſtitution;* but the whites at that time, were as ſixty-five to one, in proportion to the blacks. The whole number of free perſons in the United States, ſouth of Delaware ſtate, are 1,235,829, and there are 648,439 ſlaves; the proportion being leſs than two to one. Of the cultivators of the earth in the ſame diſtrict, it is probable that there are four ſlaves for one free white man.——To diſcharge the former from their preſent condition, would be attended with an immediate general famine, in thoſe parts of the United States, from which not all the productions of the other ſtates, could deliver them; ſimilar evils might reaſonably be apprehended from the adoption of the meaſure by any one of the ſouthern ſtates; for in all of them the proportion of ſlaves is too great, not to be attended with calamitous effects, if they were immediately ſet free. (w) Theſe are ſerious, I had

* Dr. Belkkap.

(w) What is here advanced is not to be underſtood as implying an opinion that the labour of ſlaves is more productive than that of freemen.—The author of the Treatiſe on the Wealth of Nations, informs us, "That

almoſt ſaid unſurmountable obſtacles, to a general, ſimultaneous emancipation.—There are other conſiderations not to be diſregarded. A great part of the *property* of individuals conſiſts in *ſlaves*. The laws have ſanctioned this ſpecies of property. Can the laws take away the property of an individual without his own conſent, or without a *juſt compenſation*? Will thoſe who do not hold ſlaves agree to be taxed to make this compenſation? Creditors alſo, who have truſted their debtors upon the faith of this viſible property will be defrauded. If juſtice demands the emancipation of the ſlave, ſhe alſo, *under theſe circumſtances*, ſeems to plead for the owner, and for his creditor. The claims of nature, it will be ſaid are ſtronger than thoſe which ariſe from ſocial inſtitutions, only. I admit it, but nature alſo dictates to us to provide for our *own* ſafety, and authorizes all *neceſſary*

"it appears from the experience of all ages and nations, that the work done by freemen comes cheaper "in the end than that done by ſlaves. That it is "found to do ſo, even in Boſton, New-York and "Philadelphia, where the wages of common labour are "very high." Vol. 1. pa. 123. Lond. edit. oct. Admitting this concluſion, it would not remove the objection that emancipated ſlaves would not willingly labour.

measures for that purpoſe. And we have ſhewn that our own ſecurity, nay, our very exiſtence, might be endangered by the haſty adoption of any meaſure for the *immediate* relief of the *whole* of this unhappy race. Muſt we then quit the ſubject, in deſpair of the ſucceſs of any project for the amendment of their, as well as our own, condition? I think not.—Strenuouſly as I feel my mind oppoſed to a ſimultaneous emancipation, for the reaſons already mentioned, the abolition of ſlavery in the United States, and eſpecially in that ſtate, to which I am attached by every tie that nature and ſociety form, is *now* my *firſt*, and will probably be my laſt, expiring wiſh. But here let me avoid the imputation of inconſiſtency, by obſerving, that the abolition of ſlavery may be effected without the *emancipation* of a ſingle ſlave; without depriving any man of the *property* which he *poſſeſſes*, and without defrauding a creditor who has truſted him on the faith of that property. The experiment in that mode has already been begun in ſome of our ſiſter ſtates. Pennſylvania, under the auſpices of the immortal Franklin, (x)

(x) Doctor Franklin, it is ſaid, drew the bill for the gradual abolition of ſlavery in Pennſylvania.

begun the work of gradual abolition of ſlavery in the year 1780, by enliſting nature herſelf, on the ſide of humanity. Connecticut followed the example four years after. (y) New-York very lately made an eſſay which miſcarried, by a very inconſiderable majority. Mr. Jefferſon informs us, that the committee of reviſors, of which he was a member, had prepared a bill for the emancipation of all ſlaves born after paſſing that act. This is conformable to the Pennſylvania and Connecticut laws.—Why the meaſure was not brought forward in the general aſſembly I have never heard. Poſſibly becauſe objections were foreſeen to that part of the bill which relates to the diſpoſal of the blacks, after they had attained a certain age. (z) It certainly ſeems ir-

(y) It is probable that ſimilar laws have been paſſed in ſome other ſtates; but I have not been able to procure a note of them.

(z) The object of the amendment propoſed to be offered to the legiſlature, was to emancipate all ſlaves born after a certain period; and further directing that they ſhould continue with their parents to a certain age, then be brought up, at the public expence, to tillage, arts, or ſciences, according to their geniuſes, till the females ſhould be eighteen, and the males twenty-one years of age, when they ſhould be colonized to ſuch a place as the circumſtances of the time ſhould

able to many, both as to the policy and the practicability of it. To eſtabliſh ſuch a colony in the territory of the United States, would probably lay the foundation of inteſtine wars, which would terminate only in their extirpation, or final expulſion. To attempt it in any other quarter of the globe would be attended with the utmoſt cruelty to the coloniſts, themſelves, and the deſtruction of their whole race. If the plan were at this moment in operation, it would require the annual exportation of 12,000 perſons. This requiſite number muſt, for a ſeries of years be conſiderably increaſed, in order to keep pace with the increaſing population of thoſe people. In twenty years it would amount to upwards of twenty thouſand perſons; which is half the number which are now ſuppoſed to be annually

render moſt proper; ſending them out with arms, implements of houſehold and of the handicraft arts, ſeeds, pairs of the uſeful domeſtic animals, &c. to declarethem a free and independent people, and extend to them our alliance and protection, till they ſhall haveacquired ſtrength; and to ſend veſſels at the ſame time to other parts of the world for an equal number of white inhabitants; to induce whom to migrate hither, proper encouragements ſhould be propoſed. Notes on Virginia, 251.

exported from Africa.—Where would a fund to ſupport this expence be found? Five times the preſent revenue of the ſtate would barely defray the charge of their paſſage. Where proviſions for their ſupport after their arrival? Where thoſe neceſſaries which muſt preſerve them from periſhing?—Where a territory ſufficient to ſupport them?—Or where could they be received as friends, and not as invaders? To colonize them in the United States might ſeem leſs difficult. If the territory to be aſſigned them were beyond the ſettlements of the whites, would they not be put upon a forlorn hope againſt the Indians? Would not the expence of tranſporting them thither, and ſupporting them, at leaſt for the firſt and ſecond year, be alſo far beyond the revenues and abilities of the ſtate? The expence attending a ſmall army in that country hath been found enormous. To tranſport as many coloniſts, annually, as we have ſhewn were neceſſary to eradicate the evil, would probably require five times as much money as the ſupport of ſuch an army. But the expence would not ſtop there: they muſt be aſſiſted and ſupported at leaſt for another year after their arrival in their new ſettlements. Suppoſe them

arrived. Illiterate and ignorant as they are, is it probable that they would be capable of inſtituting ſuch a government, in their new colony, as would be neceſſary for their own internal happineſs, or to ſecure them from deſtruction from without? European emigrants, from whatever country they arrive, have been accuſtomed to the reſtraint of laws, and to reſpect for government. Theſe people, accuſtomed to be ruled with a rod of iron, will not eaſily ſubmit to milder reſtraints. They would become hordes of vagabonds, robbers and murderers. Without the aids of an enlightened policy, morality, or religion, what elſe could be expected from their ſtill ſavage ſtate, and debaſed condition?—"But why not retain and "*incorporate* the *blacks into the ſtate?*" This queſtion has been well anſwered by Mr. Jefferſon, *(a)* and who is there ſo

(a) It will probably be aſked, why not retain the blacks among us and *incorporate them into the ſtate?* Deep-rooted prejudices entertained by the whites; ten thouſand recollections by the blacks, of the injuries they have ſuſtained; new provocations; the *real diſtinctions* which *nature* has made; and many other circumſtances will divide us into parties and produce convulſions, which will probably never end but in the extermination of one or the other race. To theſe objections which are political may be added others which are

free from prejudices among us, as candidly to declare that he has none againſt phyſical and moral. The firſt difference which ſtrikes us is that of colour.—&c. The circumſtance of ſuperior beauty is thought worthy attention in the propagation of our horſes, dogs, and other domeſtic animals; why not in that of man? &c. In general their exiſtence appears to participate more of ſenſation than reflection. Comparing them by their faculties of memory, reaſon and imagination, it appears to me that in memory they are equal to the whites; in reaſon much inferior; that in imagination they are dull, taſteleſs and anamolous. &c. The improvement of the blacks in body and mind, in the firſt inſtance of their mixture with the whites, has been obſerved by every one, and proves that their inferiority is not the effect merely of their condition of life. We know that among the Romans, about the Auguſtan age, eſpecially, the condition of their ſlaves was much more deplorable, than that of the blacks on the continent of America. Yet among the Romans their ſlaves were often their rareſt artiſts. They excelled too in ſcience, inſomuch as to be uſually employed as tutors to their maſters' children. Epictetus, Terence, and Phœdrus were ſlaves. But they were of the race of whites. It is not their condition then, but nature, which has produced the diſtinction. The opinion that they are inferior in the faculties of reaſon and imagination, muſt be hazarded with great diffidence. To juſtify a general concluſion requires many obſervations. &c.—I advance it therefore as a ſuſpicion only, that the blacks, whether originally a diſtinct race, or made diſtinct by time and circumſtances, are inferior to the whites both in the endowments of body and mind. &c. This un-

ſuch a meaſure? The recent ſcenes tranſacted in the French colonies in the Weſt Indies are enough to make one ſhudder with the apprehenſion of realizing ſimilar calamities in this country. Such probably would be the event of an attempt to ſmother thoſe prejudices which have been cheriſhed for a period of almoſt two centuries. Thoſe who ſecretly favour, whilſt they affect to regret, domeſtic ſlavery, contend that in aboliſhing it, we muſt alſo aboliſh that ſcion from it which I have denominated *civil* ſlavery. That there muſt be no diſtinction of rights; that the deſcendants of Africans, as men, have an equal claim to all civil rights, as the deſcendants of Europeans; and upon being delivered from the yoke of bondage have

fortunate difference of colour, and perhaps of faculty, is a powerful obſtacle to the emancipation of theſe people. Among the Romans emancipation required but one effort. The ſlave, when made free, might mix with, without ſtaining, the blood of his maſter. But with us a ſecond is neceſſary, unknown to hiſtory. —See the paſſage at length, Notes on Virginia, page 252 to 265.

"In the preſent caſe, it is not only the ſlave who "is beneath his maſter, it is the Negroe who is be- "neath the white mnn. No act of enfranchiſement "can efface this unfortunate diſtinction." Chatelleux's Travels in America.

a right to be admitted to all the privileges of a citizen.—But have not men when they enter into a ſtate of ſociety, a right to admit, or exclude any deſcription of perſons, as they think proper? If it be true, as Mr. Jefferſon ſeems to ſuppoſe, that the Africans are really an inferior race of mankind, *(b)* will not ſound policy adviſe their excluſion from a ſociety in which they have not yet been admitted to participate in civil rights; and even to guard againſt ſuch admiſſion, at any future period, ſince it may eventually depreciate the whole national character? And if prejudices have taken ſuch deep root in our minds, as to render it impoſſible to eradicate this opinion, ought not ſo general an error, if it be one, to be reſpected? Shall we not relieve the neceſſities of the naked diſeaſed beggar, unleſs we will invite him to a ſeat at our table; nor afford him ſhelter from the inclemencies of the night air, unleſs we admit him alſo

(b) The celebrated David Hume, in his Eſſay on National Character, advances the ſame opinion; Doctor Beattie, in his Eſſay on Truth, controverts it with many powerful arguments. Early prejudices, had we more ſatisfactory information than we can poſſibly poſſeſs on the ſubject at preſent, would render an inhabitant of a country where Negroe ſlavery prevails, an improper umpire between them.

to ſhare our bed? To deny that we ought to abolish ſlavery, without incorporating the Negroes into the ſtate, and admitting them to a full participation of all our civil and ſocial rights, appears to me to reſt upon a ſimilar foundation. The experiment ſo far as it has been already made among us, proves that the emancipated blacks are not ambitious of civil rights. To prevent the generation of ſuch an ambition, appears to comport with ſound policy; for if it ſhould ever rear its head, its partizans, as well as its opponents, will be enliſted by nature herſelf, and always ranged in formidable array againſt each other. We muſt therefore endeavour to find ſome middle courſe, between the tyrannical and iniquitous policy which holds ſo many human creatures in a ſtate of grievous bondage, and that which would turn looſe a numerous, ſtarving, and enraged banditti, upon the innocent deſcendants of their former oppreſſors. *Nature*, *time*, and *ſound policy* muſt co-operate with each other to produce ſuch a change: if either be neglected, the work will be incomplete, dangerous, and not improbably deſtructive.

The plan therefore which I would preſume to propoſe for the conſideration of my

countrymen is ſuch, as the number of ſlaves, the difference of their nature, and habits, and the ſtate of agriculture, among us, might render it *expedient*, rather than *deſirable* to adopt: and would partake partly of that propoſed by Mr. Jefferſon, and adopted in other ſtates; and partly of ſuch cautionary reſtrictions, as a due regard to ſituation and circumſtances, and even to *general* prejudices, might recommend to thoſe, who engage in ſo arduous, and perhaps unprecedented an undertaking.

1. Let every female born after the adoption of the plan be free, and tranſmit freedom to all her deſcendants, both male and female.

2. As a compenſation to thoſe perſons, in whoſe families ſuch females, or their deſcendants may be born, for the expence and trouble of their maintenance during infancy, let them ſerve ſuch perſons until the age of twenty-eight years: let them then receive twenty dollars in money, two ſuits of clothes, ſuited to the ſeaſon, a hat, a pair of ſhoes, and two blankets. If theſe things be not voluntarily done, let the county courts enforce the performance, upon complaint.

3. Let all Negroe children be regiſtered with the clerk of the county or corpora-

tion court, where born, within one month after their birth: let the perſon in whoſe family they are born take a copy of the regiſter, and deliver it to the mother, or if ſhe die to the child, before it is of the age of twenty-one years. Let any Negroe claiming to be free, and above the age of puberty, be conſidered as of the age of twenty-eight years, if he or ſhe be not regiſtered, as required.

4. Let all ſuch Negroe ſervants be put on the ſame footing as white ſervants and apprentices now are, in reſpect to food, raiment, correction, and the aſſignment of their ſervice from one to another.

5. Let the children of Negroes and mulattoes, born in the families of their parents, be bound to ſervice by the overſeers of the poor, until they ſhall attain the age of twenty-one years.—Let all above that age, who are not houſekeepers, nor have voluntarily bound themſelves to ſervice for a year before the firſt day of February annually, be then bound for the remainder of the year by the overſeers of the poor. Let the overſeers of the poor receive fifteen per cent. of their wages, from the perſon hiring them, as a compenſation for their trouble, and ten per cent. per annum out of the wa-

ges of ſuch as they may bind apprentices.

6. If at the age of twenty-ſeven years, the maſter of a Negroe or mulattoe ſervant be unwilling to pay his freedom dues, above mentioned, at the expiration of the ſucceeding year, let him bring him into the county court, clad and furniſhed with neceſſaries as before directed, and pay into court five dollars, for the uſe of the ſervant, and thereupon let the court direct him to be hired by the overſeers of the poor, for the ſucceeding year, in the manner before directed.

7. Let no Negroe or mulattoe be capable of taking, holding, or exerciſing, any public office, freehold, franchiſe or privilege, or any eſtate in lands or tenements, other than a leaſe not exceeding twenty-one years.—Nor of keeping, or bearing arms, (c) unleſs authoriſed ſo to do by ſome act of the general aſſembly, whoſe duration ſhall be limitted to three years. Nor of contracting matrimony with any other than a Negroe or mulattoe; nor be an attorney; nor be a juror; nor a witneſs in any court of judicature, except againſt,

(c) See Spirit of Laws, 12—15.——1. Black Com. 417.

or between Negroes and mulattoes. Nor be an executor or adminiſtrator; nor capable of making any will or teſtament; nor maintain any real action; nor be a truſtee of lands or tenements himſelf, nor any other perſon to be a truſtee to him or to his uſe.

8. Let all perſons born after the paſſing of the act, be conſidered as entitled to the ſame mode of trial in criminal caſes, as free Negroes and mulattoes are now entitled to.

The reſtrictions in this place may appear to favour ſtrongly of prejudice: whoever propoſes any plan for the abolition of ſlavery, will find that he muſt either encounter, or accommodate himſelf to prejudice.—I have preferred the latter; not that I pretend to be wholly exempt from it, but that I might avoid as many obſtacles as poſſible to the completion of ſo deſirable a work, as the abolition of ſlavery. Though I am oppoſed to the baniſhment of the Negroes, I wiſh not to encourage their future reſidence among us. By denying them the moſt valuable privileges which civil government affords, I wiſhed to render it their inclination and their intereſt to ſeek thoſe privileges in ſome other climate. There

is an immenſe unſettled territory on this continent (a) more congenial to their natural conſtitutions than ours, where they may perhaps be received upon more favourable terms than we can permit them to remain with us. Emigrating in ſmall numbers, they will be able to effect ſettlements more eaſily than in large numbers; and without the expence or danger of numerous colonies. By releaſing them from the yoke of bondage, and enabling them to ſeek happineſs wherever they can hope to find it, we ſurely confer a benefit, which no one can ſufficiently appreciate, who has not taſted of the bitter curſe of compulſory ſervitude. By excludidg them from offices, the ſeeds of ambition would be buried too deep, ever to germinate: by diſarming them, we may calm our apprehenſions of their reſentments ariſing from paſt ſufferings; by

(a) The immenſe territory of Louiſiana, which extends as far ſouth as the lat. 25° and the two Floridas, would probably afford a ready aſylum for ſuch as might chooſe to become Spaniſh ſubjects. How far their political rights might be enlarged in theſe countries, is, however queſtionable: but the climate is undoubtedly more favourable to the African conſtitution than ours, and from this cauſe, it is not improbable that emigrations from theſe ſtates would in time be very conſiderable.

incapacitating them from holding lands, we ſhould add one inducement more to emigration, and effectually remove the foundation of ambition, and party-ſtruggles. Their perſonal rights, and their property, though limited, would whilſt they remain among us be under the protection of the laws; and their condition not at all inferior to that of the *labouring* poor in moſt other countries. Under ſuch an arrangement we might reaſonably hope, that time would either remove from us a race of men, whom we wiſh not to incorporate with us, or obliterate thoſe prejudices, which now form an obſtacle to ſuch incorporation.

But it is not from the want of liberality to the emancipated race of blacks that I apprehend the moſt ſerious objections to the plan I have ventured to ſuggeſt.—Thoſe ſlave holders (whoſe numbers I truſt are few) who have been in the habit of conſidering their fellow creatures as no more than cattle, and the reſt of the brute creation, will exclaim that they are to be deprived of their *property*, without compenſation. Men who will ſhut their ears againſt this moral truth, that all men are by nature *free*, and *equal*, will not even be convinced that they do not

poſſeſs a *property* in an *unborn* child: they will not diſtinguiſh between allowing to *unborn* generations the abſolute and unalienable rights of human nature, and taking away that which they *now poſſeſs*; they will ſhut their ears againſt truth, ſhould you tell them, the loſs of the mother's labour for nine months, and the maintenance of a child for a dozen or fourteen years, is amply compenſated by the ſervices of that child for as many years more, as he has been an expence to them. But if the voice of reaſon, juſtice and humanity be not ſtifled by ſordid avarice, or unfeeling tyranny, it would be eaſy to convince even thoſe who have entertained ſuch erroneous notions, that the right of one man over another is neither founded in nature, nor in ſound policy. That it cannot extend to thoſe *not in being*; that no man can in reality be *deprived* of what he doth not poſſeſs: that fourteen years labour by a young perſon in the prime of life, is an ample compenſation for a few months of labour loſt by the mother, and for the maintenance of a child, in that coarſe homely manner that Negroes are brought up: And laſtly, that a ſtate of ſlavery is not only perfectly incompatible with the principles of govern-

ment, but with the ſafety and ſecurity of their maſters. Hiſtory evinces this. At this moment we have the moſt awful demonſtrations of it. Shall we then neglect a duty, which every conſideration, moral, religious, political, or *ſelfiſh*, recommends. Thoſe who wiſh to poſtpone the meaſure, do not reflect that every day renders the taſk more arduous to be performed. We have now 300,000 ſlaves among us. Thirty years hence we ſhall have double the number. In ſixty years we ſhall have 1,200,000. And in leſs than another century from this day, even that enormous number will be doubled. Milo acquired ſtrength enough to carry an ox, by beginning with the ox while he was yet a calf. If we complain that the calf is too heavy for our ſhoulders, what will not the ox be?

To ſuch as apprehend danger to our agricultural intereſt, and the depriving the families of thoſe whoſe principal reliance is upon their ſlaves, of ſupport, it will be proper to ſubmit a view of the gradual operation, and effects of this plan. They will no doubt be ſurprized to hear, that whenever it is adopted, the number of ſlaves will not be diminiſhed for forty years after it takes place; that it will even encreaſe for thirty years; that

at the diſtance of ſixty years, there will be one-third of the number at its ~~firſt~~ commencement: that it will require *above a century* to complete it; and that the number of blacks *under twenty-eight*, and conſequently bound to ſervice, in the families they are born in, will always be at leaſt as great, as the preſent number of ſlaves. Theſe circumſtances I truſt will remove many objections, and that they are truly ſtated will appear upon enquiry.(e) It

(e) As it may not be unacceptable to ſome readers to obſerve the operation of this plan, I ſhall ſubjoin the following ſtatement:

PRELIMINARY REMARKS.

1. The number of ſlaves in Virginia by the late cenſus being found to be 292,427, they may now, in round numbers be eſtimated at 300,000

2. Let it be ſuppoſed that the males and females are nearly or altogether equal in number.

3. According to Dr. Franklin, the people of America double their numbers in about twenty-eight years; and according to Mr. Jefferſon, the negroes increaſe as faſt as the whites, they will therefore double, at leaſt every thirty years.

4. Let it be ſuppoſed that in thirty years one half of the preſent race of negroes will be extinct.

5. Let it be ſuppoſed that in forty-five years there will not remain more than one-fifth of the preſent race alive.

will further appear, that females only will arrive at the age of emancipation within the firſt forty-five years; all the males during that period, continuing either in ſlavery, or bound to ſervice till

6. Let it be likewiſe ſuppoſed, that in ſixty years the whole of the preſent race will be extinct.

7. For conciſeneſs ſake, let the preſent race be called *ante-nati*, thoſe born after the adoption of the plan, *poſt-nati*.

FROM HENCE IT WILL FOLLOW,

1. That the preſent number of ſlaves being 300,000

2. In thirty years their numbers will amount to - - - - 600,000

3. But at that period as one half of them will be extinct, (rem. 4.) their numbers will ſtand thus:

Ante-nati,	150,000
Poſt-nati,	450,000
	600,000

4. The mean increaſe of the poſt-nati for the next thirty years will therefore be $\frac{450000}{30}$, annually, or - 15,000

5. If one half of theſe be males, who are ſtill to remain ſlaves, there will in the firſt ſixteen years, be born - 120,000

6. After the firſt ſixteen years, the poſt-nati females will begin to breed; the proportion of males born to ſlavery in the next twelve years may be eſtimated at one-fourth of the whole number born after the commencement of that period. Their number will be - - - - - 52,000

the age of twenty-eight years. The earth cannot want cultivators, whilſt our population increaſes as at preſent, and three-fourths of thoſe employed therein are held to ſervice, and the remainder compella-

7. The number of *ſlaves* living in Virginia at the end of *thirty* years from the adoption of the plan, will be, ante-nati (prop. 3.) - - - 150,000

Poſt-nati males born in the firſt 16 years, - - 120,000

Poſt-nati males born in the laſt 12 years, - - 52,500

322,500

8. The number of *negroes* at the ſame time will ſtand thus:

Slaves, - -	322,500
Poſt-nati free born,	277,500
- -	600,000

9. After twenty-eight years from the firſt adoption, this plan of gradual emancipation will firſt begin to manifeſt its effects, by the complete emancipation of one twenty-eighth part of the poſt-nati free born during that period each ſucceeding year, for twenty-eight years more; their numbers will be, $\frac{277500}{28}$, or - - - 9,910

Theſe will be all females.

10. It being admitted that the negroes double every thirty years, the ſuppoſition that in forty-five years, their numbers will be half as many more as in thirty, will not be very erroneous, if ſo, the whole race of them at that period will be - - 900,000

ble to labour. For we muſt not loſe ſight of this important conſideration, that theſe people muſt be *bound* to labour, if they

11. Their numbers will ſtand thus:

Ante-nati, -	60,000
Poſt-nati, -	840,000
	900,000

12. After twenty-eight years are paſt, the number of ſlaves born muſt continually diminiſh. Suppoſe their number born in the laſt 17 years, to be one-fourth as many as thoſe born in the preceding twelve years, they will be $52{,}500$, or - - 13,125

13. The ſlaves in Virginia in forty-five years will then be,

ante-nati, -	60,000
Poſt-nati males born in the firſt ſixteen years, - -	120,000
Ditto, born in the next twelve years, - - -	52,500
Ditto, born in the laſt ſeventeen years,	13,125
	245,625

At this period the emancipation of males will begin.

14. But after twenty-eight years it has been ſhewn that 9,910 negroes will annually arrive at the age of emancipation, their whole number in forty-five years will be 168,470

15 The ſtate of the negroes at the end of 45 years, will then be,

ſlaves, -	245,625
Poſt-nati fully emancipated (females), - - -	168,470
Poſt-nati not emancipated, -	485,905
	900,000

do not *voluntarily* engage therein. Their faculties are at preſent only calculated for that object; if they be not employed

16. In ſixty years the whole number of negroes will be - - - - - 1,200,000

17. At that period the whole of the preſent race will be extinct; and we may alſo infer that one half of thoſe born in the firſt thirty years will be alſo extinct; the number of ſlaves born in that period has been ſhewn, (prop. 7.) to be 172,500, the number of theſe then living will be $172{,}500$, or - 86,250

18. One half of the poſt-nati free born, during that period, being now fully emancipated, may be likewiſe preſumed to be extinct; their numbers (prop. 8.) will be, $277{,}500$, or - 138,750

19. The ſtate of the negroes at the end of ſixty years, will therefore be:

Slaves born during the firſt thirty years,	86,250
Ditto born after that period, -	13,125
Poſt-nati fully emancipated, -	138,750
Poſt-nati under 28 years of age,	961,875
	1,200,000

20. At the end of ninety years the number of negroes will be - - - - 2,400,000

21. Of this number, thoſe only born after the firſt thirty years, being ſuppoſed to be living, the number of ſlaves (prop. 12) will then be reduced to - - - - 13,125

22. And as the laſt mentioned number of ſlaves are ſuppoſed to be born within forty-five years, their whole number will be extinct

therein they will become drones of the worſt deſcription. In abſolving them from the yoke of ſlavery, we muſt not forget the intereſts of the ſociety. Thoſe intereſts require the exertions of every individual in ſome mode or other; and thoſe who have not wherewith to ſupport themſelves honeſtly without corporal labour, whatever be their complexion, ought to be compelled to labour. This is the caſe in England, where domeſtic ſlavery has long been unknown. It muſt alſo be the caſe in every well ordered ſociety; and where the numbers of perſons without property increaſe, there the coertion of the laws becomes more immediately requiſite. The propoſed plan would neceſſarily have this effect, and therefore ought to be accompanied with ſuch a regulation. Though the rigours of our police in reſpect to this unhappy race ought

in fifteen years more, that is, in *one hundred* and *five* years from the firſt adoption of the plan.

23. By prop. 19. it appears, that out of 1,200,000 negroes, there will then be 961,875 under the age of twenty-eight years, the period of emancipation.

24. We may therefore conclude, that from *two-thirds* to *three-fourths* of the whole number of blacks will *always* be liable to ſervice.

to be ſoftened, yet, its regularity, and punctual adminiſtration ſhould be increaſed, rather than relaxed. If we doubt the propriety of ſuch meaſures, what muſt we think of the ſituation of our country, when inſtead of 300,000, we ſhall have more than *two millions* of SLAVES among us? This *muſt happen within a* CENTURY, if we do not ſet about the abolition of ſlavery. Will not our poſterity curſe the days of their nativity with all the anguiſh of Job? Will they not execrate the memory of thoſe anceſtors, who, having it in their power to avert evil, have, like their firſt parents, entailed a curſe upon all future generations? We know that the rigour of the laws reſpecting ſlaves unavoidably muſt increaſe with their numbers: What a blood-ſtained code muſt that be which is calculated for the reſtraint of *millions* held in bondage! Such muſt our unhappy country exhibit within a century, unleſs we are both wiſe and juſt enough to avert from poſterity the calamity and reproach, which are otherwiſe unavoidable.

I am not vain enough to preſume the plan I have ſuggeſted entirely free from objection; nor that in offering my own ideas on the ſubject, I have been more for-

tunate than others: but from the communication of sentiment between those who lament the evil, it is possible that an effectual remedy may at length be discovered. Whenever that happens the golden age of our country will begin. Till then,

Non hospes ab hospite tutus,
Non Herus à Famulis: fratrum quoque gratia rara.

THE END.