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R E P R E S E N T A T I O N
O F T H E
I N J U S T I C E A N D D A N G E R O U S T E N D E N C Y
O F
T O L E R A T I N G S L A V E R Y
I N
E N G L A N D.

A
R E P R E S E N T A T I O N
O F T H E
Injustice and Dangerous Tendency
O F
T O L E R A T I N G S L A V E R Y ;
O R O F
A D M I T T I N G T H E L E A S T C L A I M
O F
Private Property in the Persons of Men,
in England.

I N F O U R P A R T S .

C O N T A I N I N G ,

- I. Remarks on an Opinion given in the Year 1729, by the (then) Attorney General and Solicitor General, concerning the Case of Slaves in Great Britain.
- II. The Answer to an Objection, which has been made to the foregoing Remarks.
- III. An Examination of the Advantages and Disadvantages of tolerating Slavery in England. The latter are illustrated by some Remarks on the Spirit of the Plantation Laws, occasionally introduced in Notes, which demonstrate the cruel Oppression, not only of Slaves, but of Free Negroes, Mulattoes, and Indians, and even of Christian White Servants in the British Colonies.
- IV. Some Remarks on the ancient Villenage, shewing, that the obsolete Laws and Customs, which favoured that horrid Oppression, cannot justify the Admission of the modern West Indian Slavery into this Kingdom, nor the least Claim of Property, or Right of Service, deducible therefrom.

BY GRANVILLE SHARP.

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M D C C L X I X .

Ex dono Andonie

A

REPRESENTATION, &c.

PART I.

*Remarks on an opinion given in the year 1729,
by the (then) Attorney and Solicitor General,
concerning Slaves brought to Great
Britain.*

PREAMBLE TO THE OPINION*.

“ **I**N order to certify a mistake, that
“ Slaves become free by their being in

* This is copied from a MS. collection of opinions, cases, &c. in the hands of a gentleman of the law: but the opinion, without the preamble, may be seen in the XIth volume of the Gentleman's Magazine.

B

Eng-

“ England, or being baptized, it hath
 “ been thought proper to consult the King’s
 “ Attorney and Solicitor General in Eng-
 “ land thereupon; who have given the fol-
 “ lowing opinion, subscribed with their
 “ own hands.”

O P I N I O N.

“ We are of opinion, that a Slave by
 “ coming from the West-Indies to Great-
 “ Britain, or Ireland, either with or with-
 “ out his master, doth not become free;
 “ and that his master’s property or right
 “ in him, is not thereby determined or
 “ varied; and that baptism doth not bestow
 “ freedom on him, nor make any altera-
 “ tion in his temporal condition in these
 “ kingdoms: We are also of opinion, that
 “ the master may legally compel him to
 “ return again to the plantations.”

P. YORK.

C. TALBOT.

Jan. 14, 1729.

The authority of these great names is
 such, that I might seem guilty of an un-
 pardonable presumption, if I should com-

inence my criticism on this opinion by any other method, than that of comparing it with the sentiments of other persons, who have considered the same subject.

“ It is said, that the law of England is
 “ favourable to liberty ; and so far this
 “ observation is just, that when we had
 “ men in a servile condition amongst us,
 “ the law took advantage even of neglects
 “ of the masters to enfranchise the villain,
 “ and seemed for that purpose even to sub-
 “ tilize a little ; because our ancestors
 “ judged, that *freemen were the real support*
 “ *of the kingdom.*” (See the Account of the
 European Settlements in America, vol. ii.
 part vi. ch. xii. p. 130.) Another remark of
 the same ingenious author (in p. 118.) con-
 veys a very sensible idea of those just and
 equitable reasons, which probably induced
 our ancestors to render the English laws so
 indulgent to the oppressed villain.

“ Indubitably” (says he) “ the security,
 “ as well as the solid wealth of every na-
 “ tion, consists principally in the number
 “ of low and middling men of a free con-
 “ dition, and that beautiful gradation from
 “ the highest to the lowest, where the
 “ transitions all the way are almost im-

“ perceptible.—To produce this, ought to
 “ be the aim and mark of every well regu-
 “ lated common-wealth, and *none has ever*
 “ *flourished upon other principles.*”

The vassalage of Scotland was considered by our legislature, as highly injurious to the welfare of that kingdom, dangerous to this, and unjust in itself: it was therefore abolished by an Act * of Parliament in the twentieth year of King George

* This Act (according to the preamble) is “ for extending the influence, benefit and protection of the King’s laws and courts of justice to all his Majesty’s subjects in Scotland;” yet it must be confessed, that *some* of his Majesty’s subjects in Scotland, (viz. those who work in the collieries, saltworks, or mines) seem still to be exposed in too great a degree to the will of their employers, by the 21st section; unless it should be allowed, that the clause is expressed in such terms, that it cannot justify any arbitrary proceedings.

And indeed, there is some room for a favourable interpretation, the proprietor being only at liberty to exercise “ *such power and authority as is competent to him by law.*”

Therefore, as the law cannot authorize an unjust oppression, the above-mentioned “ *power and jurisdiction,*” may (I hope) be considered as a mere shadow of vassalage, without effect.

Nevertheless there will not be wanting interested persons to urge, that the clause is sufficiently effectual, and that it must necessarily be understood to imply and authorize a continuation of the former vassalage, over “ *all workmen employed in carrying on coalworks, salt-*
 “ *works, and mines in Scotland.*” But even if this should really be true, I will venture one objection against it, viz. that the same is absolutely unnecessary, if not hurtful

the second, (A. D. 1747. ch. xliii. “ An
 “ Act for taking away and abolishing the
 “ Heretable Jurisdctions in that Part of
 “ Great-Britain called Scotland, &c.”) for
 which salutary measure, all true friends
 to the liberty of Great Britain ought to be
 thankful.

Indeed there are many instances of persons being freed from Slavery by the laws of England; but (God be thanked) there is neither law, nor even a precedent (at least I have not been able to find one) of a legal determination, to justify a master in claiming or detaining any person whatsoever as a Slave in England, who has not voluntarily bound himself as such by a contract in writing.

In the case of Gallway versus Caddee, tried before Baron Thompson at Guildhall, about 30 years ago *, verdict was given for the defendant, in behalf of a Negro claimed by the plaintiff as his Slave, whom the

ful to the true interest of the proprietors of such works. The learned Baron Montesquieu clearly demonstrates this point, (viz. “ Inutilité de L’Eslavage parmi nous.”) in the 8th chap. of his 15th book, des L’Esprit de Loix.

See further remarks on this head in the IVth part.

* The author accidentally met with a gentleman who was present at this trial.

court declared to be *free on his first setting foot on English ground.*

Also in the case of De Pinna, &c. versus Henriques, (who protected a poor Negro woman, claimed by the plaintiffs as their Slave) a verdict was given for the defendant at Guildhall in 1732.

Lord Chief Justice Holt held, that “ as soon as a Negro comes into England, he becomes free : one may be a villain in England, but not a Slave.” See Salkeld’s Reports, vol. ii. p. 666.

“ Slaves may claim their freedom as soon as they come into England, Germany, France, &c.” Groenwig Vinnius adht. Wood’s Civ. Inst. b. i. ch. ii. p. 114.

The state of Slaves amongst the ancient Romans or other heathen nations, and the imaginary right of conquerors in those early days to enslave their captives, do not at all concern a Christian government ; so that it would be superfluous to quote the learned Grotius’s considerations on these subjects ; because such precedents cannot be of any authority amongst Christians. ’Tis sufficient for our purpose, that these heathen customs are not now established in Europe, and that even Grotius himself allows the same.

After

After speaking of the asylum given by the Jews to Slaves, who had fallen into that unhappy state, without any fault of their own, he observes as follows: “Quali
 “ex causa videri potest ortum jus quod in
 “solo Francorum servis datur proclamandi in
 “libertatem, quanquam id nec quidem nunc
 “tantum bello captis sed & aliis qualibet
 “servis videmus dari.” Grotius, lib. iii, cap. vii. sect. viii. p. 735. Gronovius further explains these words, (“Servis datur
 “proclamandi,”) in the following note, viz. “Ut Servus peregrinus, simul atque ter-
 “ram Francorum tetigerit, eodem momento
 “liber fiat.” * Gronovius.

I may add farther, that it is, and ever has been, the constant practice of Justices of the Peace in England, (if I except a certain mercenary trading Justice at the West end of the town) to enlarge all persons who demand the Magistrate’s protection from the tyranny of Slaveholders. Therefore it must appear, that Slavery is by no means tolerated in this island, either by the law or custom of England; though

* “That a foreign Slave, as soon as he shall have
 “touched European ground, the same moment may be
 “made free.”

the opinion, which I now propose to examine, inculcates a very different doctrine: but, indeed, it is expressed in such *general* terms, that it admits of an ambiguous interpretation; for it may be right, or it may be wrong, according to the different circumstances of cases.

Nevertheless, the characters of the very eminent and worthy persons who subscribed this opinion, are such, that it is not possible to conceive, that the least equivocation was really intended: so that I am entirely at a loss how to account for their having contented themselves with stating the case merely on one side of the question (I mean in favour of the masters,) without signifying at the same time, that their opinion was only *conditional*, and *not absolute*. The want of this necessary distinction, has occasioned an unjust presumption and prejudice (plainly inconsistent with the laws of the realm) against the other side of the question.

Therefore, with all the deference due to the great learning, skill and abilities of these very respectable personages, I propose, 1st of all, to shew, that this opinion *conditionally* is right. And 2dly, That the
general

general presumption upon the whole is wrong.

The opinion consists of three Parts, 1st, “ *That a Slave, by coming from the West Indies to Great Britain or Ireland, either with or without his master, doth not become free, and that his Master’s property or right in him, is not thereby determined or varied.*” all this is certainly true, provided the Master can produce an authentic agreement or “ *contract in writing;*” by which it shall appear, that the said Slave hath voluntarily bound himself, without compulsion or illegal dures.

2dly, They affirm, “ *That Baptism doth not bestow freedom on him*” (the Slave) “ *nor make any alteration in his temporal condition in these kingdoms.*” This I am willing for the present to allow, as I have not hitherto seen any sufficient authorities to alledge against it.

The 3d Part of the opinion is, “ *That his*” (the Slave’s) “ *master may legally compel him to return again to the plantations.*” This is certainly true, provided that the Master is possessed of such an agreement or contract, as is before mentioned.

For

For even if a free English Subject should enter into such a kind of contract; he may be carried out of the kingdom (if the contract expresses so much) *with or without his own subsequent consent* *, by express permission of an English Statute; (31 Car. II. ch. 2. sect. xiii.) unless the master, to secure his bargain, shall have imprisoned or confined him; for such an act ought, in strict justice, to be esteemed absolutely illegal, if the indentured Person did not previously refuse to fulfil the contract on his part.

Baron Puffendorf, in his Law of Nature and Nations (b. vi. ch. iii. p. 619.) makes some observations, which may serve to illustrate this point. “*When a Slave*” (says he) “not by way of punishment, or on account of any preceding offence, is thrown into irons or OTHERWISE DEPRIVED OF CORPORAL LIBERTY, he is by this act, *released* from his former obligations by compact; for his master is

* This indeed is law, but whether or not, 'tis altogether equity, doth not rest with me to determine. The learned Baron Montesquieu, indeed, seems clearly to prove, that a freeman cannot make an equitable bargain for his liberty. “Il n'est pas vrai qu'un homme libre puisse se vendre, &c.” b. xv. ch. ii. p. 342.

“sup-

“ supposed to take off his *moral bonds*, by
 “ thus imposing *natural*.”

Perhaps the strict regard which the Attorney and Solicitor General had to the security of private property, might prevent them from expressing in their opinion, how far a Negro Slave in England (not contracted as above) is entitled to the protection of the laws, lest the knowledge of such a claim of protection should invalidate the master's *right of property*, who purchased or brought him to England, and who would thereby be liable to be divested of the said property.

This certainly seems to be a very equitable consideration ; but the same equity, as in a case between *man* and *man*, obliges us likewise to distinguish how far one man may lawfully be considered as the property of another, “ *within this kingdom of England, dominion of Wales, or town of Ber-*
 “ *wick upon Tweed*,” when there is no such previous contract.

The Laws of the Realm do most certainly secure to every man, without exception, his *private property* ; but it must be likewise remembered, that the nature of every kind of *property* ought to be considered,

dered, before it can be lawfully claimed : for there are many cases wherein *property is absolutely altered* ; as in the case of contraband goods brought to England, and in all forfeitures, escheats, and other circumstances, wherein the King's right lawfully interferes.

Salvo Jure Regis, is an exception that takes place of all private claims. Therefore, if a Slave by coming into England, is any ways "*bounden*" in allegiance to the King and the laws, during his residence within the realm, he becomes *the King's subject*, which I shall clearly prove hereafter. The effect of this is, that in *a relative sense*, he becomes likewise *the King's property*, according to the law of nations. Baron Puffendorf is very express in this particular, b. vi. ch. iii. p. 614. "*Every Sovereign*" (says he) "*may indeed, as Mr. Hobbes* "*remarks, say of his subject, Hic meus est ;* "*This man is my property, yet it is in a* "*quite different sense that we call a thing* "*our own.*"

But those persons, who claim their Negro Servants in England, as Slaves, and *private property*, seem in general to have entirely laid aside this proper distinction. They

They call them, indeed, *Negro Fellows*; but so contemptuous is their manner of expression, that the proper meaning of the word *Fellow*, seems with them to be entirely reversed! Their actions correspond but too well with their address; for they usurp as an absolute authority over these *their fellow men*, as if they thought them; mere *things*, horses, dogs, &c.

I have too much reason to charge them with this inhumanity; for, in the case (wherein I am at present concerned) of a Negro being sold, during an unlawful confinement, without a warrant, in the Poultry-Compter, though he had been set at liberty from the insupportable tyranny of his master (THE SELLER) more than two years before, at a meeting of the Middlesex Justices, yet it has been alledged by the said *Seller* (even after the Negro had been a second time set at liberty by the authority of the right honourable the Lord Mayor) that he, the said Negro, is *as much private property as a horse or a dog*.

In answer to such unnatural, though usual comparisons, I might AS REASONABLY ALLEDGE, (*if no regard is to be paid to human nature*) that the Negro ought rather to be
ranked

ranked among creatures “ *Feræ naturæ*”; (pardon, for the present, the absurdity of such an idea) than among horses, dogs, cats, &c. because those of the latter class are esteemed in law, as “ *things of a base nature*,” which, it seems, the former are not; and therefore (if it can be thought at all allowable to rank a man with beasts) the Negro has an undoubted right to be esteemed of the more noble kind of the two. Also, for another reason, he is entitled to be esteemed, rather a creature *feræ naturæ*, than of a *base nature*; because he was not born in slavery (as are many unhappy persons in the English plantations) but was *free* born; of human, not base, parents; parents, who had as much right to their *natural liberty*, as the wild animals, with which their native country (Africa) abounds: therefore if this Negro should unjustly be denied all *human privileges*, yet, as he is not of a *base nature*, he ought at least to enjoy as much privilege as bears, hawks, or any other creatures *feræ naturæ*, which have been taken and made tame: because in these “ *we have only a property*” (says Wood, b. ii. ch. 5. p. 539.) “ *so long as they remain tame, and do not re-*
“ *gain*

“ gain *their natural liberty, and have not a custom of returning;*” for otherwise they cannot be claimed as an *absolute property* *.

Thus it must appear, that the plea of *private property* in a Negro, as in *a horse or a dog*, is very insufficient and defective. But I will now shew, that the comparing of a man to a beast, at any rate, is unnatural and unjust; as well as the seizing, and detaining him as such, is dangerous to the pretended proprietors. For they cannot be justified, unless they shall be able to prove, that a Negro Slave is neither man, woman nor child †: and if they are not able to do this, how can they presume to consider such a person as a mere “*chose in action*” ? or *thing* to be demanded in action ?

The Negro must be divested of his humanity, and rendered incapable of the

* “ One may have an *absolute property* in hens, geese, ducks, peacocks, &c. but not in creatures that are *Feræ naturæ*, as wild beasts, &c. Id. p. 538.

† Il est impossible que nous supposions que ces gens-là soient des hommes; parceque si nous les supposions des hommes, on commenceroit à croire que nous NE SOMMES PAS NOUS-MEMES CHRETIENS. L'Esprit des Loix. b. xv. ch. 5. “ It is impossible for us to suppose that “ these people are *men*; because if we should suppose “ them to be *men*, one would begin to believe that *we* “ *ourselves are not Christians.*” A very severe (and alas! but too just) satire against Slave-holders!

King's protection, before such an action can lawfully * take place.

But how is he to be divested of his *human nature*? or of his just right to the King's protection?

A man may, indeed, be said to be divested of his *humanity*, 1st, in a moral sense, by his own action, in stooping to any kind of baseness beneath the dignity of a *man*. And 2dly, By the execution of the laws, in punishment of some particular kinds of baseness, for which a man may *lawfully* be divested of his humanity by a *civil death*: that is; may be “*disabled to hold any office or franchise, &c.*” “*as if such person was naturally dead.*” This is one of the penalties expressed in a Statute (2 Geo. II. ch. 24.) against bribery and corruption in Parliamentary Elections, whereby, not less the *Briber* than the *Bribed*, (whether the offence be committed “*by himself, or any person employed by him*”) is subjected to the divestiture abovementioned. But the vilest and most ignorant Negro Slaves are not so *inhumanly* base and

* Trover lies not for a Negro: for men may be owners, and therefore not the subject of property, &c. See Cunningham's Law Dictionary, under the word Negro.

degenerate

degenerate as these Time-servers, who offend against God ! the King ! their friends and fellow-subjects ! themselves ! and all their unhappy posterity, even the children that are unborn ! They are enemies to the State, infinitely more to be dreaded, than the most puissant foreign power at open war ! *

* No shuffling arts or equivocations whatsoever can lighten this monstrous load of guilt, for which the offenders must *one day* most certainly be called to account, notwithstanding that they may have escaped the penalties of this English Statute : for indeed it is merely the penalties (or execution) of the said Statute which they escape and not the guilt of breaking it ; because the same is so warily drawn up, that there is not the least room for mental reservation.

A very large proportion of the freeholders in this kingdom, it is to be feared, are involved in this horrid guilt ! Nay every elector who hath but even EAT or DRANK at the expence of another, during the time of an election, is likewise in some measure guilty ! (though charity will incline us to suppose that their offence is, for the most part, occasioned by ignorance, rather than wilful corruption) for not only money, but also any “ Gift, Office, Imployment, or OTHER REWARD “ WHATSOEVER” is forbid by the said Act. Now this prohibition must necessarily include *meat* and *drink*, since these articles cannot be considered below the estimation of a “ REWARD,” because they are expressly prohibited by a preceding Act still in force, (viz. 7 W. III. ch. 4.) whereby those Candidates, who shall “ *directly or indirectly* give, present or allow to any person or persons, having voice or vote in such election, any money, MEAT, DRINK, ENTERTAINMENT, or PROVISION, &c. are rendered incapable (though elected) *to act, sit, or have any vote, or place in parliament, &c.*” Happy would it be for England, if this

C

“ salutary

But the case of this poor Negro is very different. If he is a Slave, yet it was not with his own consent that he was made so. He neither *sold himself*, nor has he *betrayed others*, and cannot therefore be liable to such severe penalties. He has not been guilty of any offences, that I know of, for which he might *lawfully be divested of his humanity*; and therefore it must certainly be allowed, that he differs from a horse or a dog in this very *essential point*, viz. *his humanity*.

salutary law could be strictly enforced! Bribes in money, places, &c. are not productive of half so much evil, as the debaucheries of election entertainments, because the pernicious effects of the latter are so permanent, that they may fairly be said to be transmitted from election to election. The gross immorality, as well as the deplorable idleness and poverty, (all forerunners of slavery) which too much prevail in many parts of this kingdom, ought, (I sincerely believe) to be principally attributed to the unlawful practice of opening houses for public entertainment at elections: and we cannot hope that this dangerous evil will ever be corrected, unless the wisdom of the legislature shall hereafter think fit to oblige every candidate (as soon as he declares himself such) to promise upon oath, that he will strictly observe every article of the last mentioned Act, against treating electors. This long digression from the subject of Negro Slaves, the author hopes may be pardoned, especially, if the reader will please to consider, that civil and political Slavery, as well as Slavery to sensual appetites, are so very nearly connected with each other, in their nature and effects, that it is no very considerable transition from the present point, to speak of them together.

So

So that, though he may have been a Slave, and, (according to the custom of the Colonies) accounted the *private property* of his master, before he came to England, yet these circumstances make no alteration in *his human nature*; for every Negro Slave, being undoubtedly either man, woman, or child; he or she, immediately upon their arrival in England, becomes *the King's property* in the *relative sense* before-mentioned, and *cannot*, therefore, be “*out of the King's protection.*”

But if any Slaveholder still obstinately persists in his claim of *private property*, let him be no longer ignorant, that “*where the title of the King and a common Person concurs, the title of the King shall be preferred.*” Wood's Instit. b. i. ch. 2. p. 32.

Let him know, likewise, that the quondam Slave is enabled by the laws of this realm, to vindicate and put in Suit this title and claim of the King; “*for*” (says Wood, b. iv. ch. iv. p. 938.) “*when any thing is prohibited by a Statute,*” (as in this case) “*though the Statute doth give an Action or penalty, yet the party grieved may have an Action, Tam pro Domino Rege, quam seipso;*” as well for the King, as in

his own behalf, *for the security of his person*; which is a much more reasonable and effectual plea, than that of *any private property* whatsoever: for it is an established maxim of the most learned lawyers, especially the great Sir Edward Coke, (1 Inst. 124b. 2 Inst. 42. 115.) that “*the law favours liberty, and the freedom of a man from imprisonment; and therefore kind interpretations shall be made on its behalf.*” Wood’s Inst. b. i. ch. i. p. 25.

But some persons have alledged, that a Slave cannot avail himself of the laws, because he is not *a subject*; for a Slave (say they) cannot, in a political sense, be considered as a subject; but I hope soon to make it appear otherwise. I have already shewn, that an English *subject* may be made a Slave by contract; but it is necessary to observe likewise, that no contract whatsoever, *can entie his indispensable obligation and allegiance to the King and the laws.* Therefore as it appears, that a *subject* may become a Slave; so it necessarily follows, that a Slave may be *a subject*, since the Ties of allegiance cannot be dissolved.

An English *subject* cannot be made a Slave, without *his own free consent*, as I have

have before observed, but, on the other hand, a foreign *Slave* is made a *subject*, with or without his own consent: there needs no contract for this purpose, as in the other case, nor any other act or deed whatsoever, but that of his being landed in England; “ For every *Alien and Stranger* “ *born out of the King’s obeisance, not being* “ *denizen, which now or hereafter*” (says a Statute of 32 Hen. viii. ch. xvi. sect. ix.)

“ *shall come in or to this realm, or elsewhere* “ *within the King’s dominions, shall, after* “ *the said first of September, next coming, be* “ *bounden by and unto the Laws and Statutes* “ *of this realm, and to all and singular the* “ *contents of the same.*”

Now it must be observed, that this law makes no distinction of *bond or free*; neither of colours or complexions, whether of *black, brown, or white*; for “ *every alien and stranger*” (without exception) “ *are* “ *bounden by and unto the laws, &c.*”

This *binding or obligation*, is properly expressed by the English word *Ligeance* (a *Ligando*) which may be “ *either perpetual* “ *or temporary:*” (Wood, b. i. c. iii. p. 37.) but one or other of these is indispensably due to the Sovereign from all ranks

and conditions of people. Their being “*bounden unto the laws,*” (upon which the Sovereign’s right is founded) expresses and implies their SUBJECTION to the laws; and therefore to alledge, that an Alien is not a SUBJECT, because he is in bondage, is not only a plea without foundation, but a contradiction in terms; for every person, who in any respect is in *subjection* to the laws, must undoubtedly be a *subject*.

Foreign Ambassadors, indeed, by the Law of Nations, enjoy peculiar privileges; which are also confirmed by a Statute of 7 Ann, ch. 12. as well as the privileges of their servants; though the latter cannot claim them, unless their names are registered in the Secretaries Office, &c. pursuant to the said Statute.

Nevertheless, even an Ambassador is, in some degree, *subject* to the laws of this realm; for if such a one “*is guilty of treason against the King’s life, he may be condemned and executed, but for other treasons, he shall be sent home, with a demand to punish him, or to send him back to be punished.*” Wood’s Inst. b. iii. ch. i. p. 588. Ambassadors could not be said to be guilty of *treason*, if they were
not

not considered as “*bounden*” by a sort of *temporary allegiance* to the King, in return for his protection, and that of the public faith, during their residence in this kingdom.

I come now to the main point in question; for as I have proved, not only that there are different degrees of *subjection* in England, but also, that *bondmen* may be *subjects* as well as *freemen*, the inevitable conclusion upon the whole is, that every man, woman, or child, “*that now is, or hereafter shall be an inhabitant or resident of this kingdom of England, dominion of Wales, or town of Berwick upon Tweed,*” is in some respect or other the King’s *subject*; and, as such, is absolutely secure in his or her *personal liberty*, by virtue of a Statute, 31 Car. II. ch. ii. and particularly, by the xiith Section of the same, (a copy of which is hereunto annexed) wherein *subjects of all conditions* are plainly included.

This Act is expressly intended “for the better securing *the liberty of* THE SUBJECT, and for prevention of imprisonment beyond the seas.” It contains no distinctions of *natural-born, naturalized, de-*

nizen, or alien subjects, nor of white or black, free-men, or even of BOND-MEN (except in the case already mentioned of a contract in writing, allowed by the 13th Section, and the exception likewise in the 14th Section, concerning felons) but they are all included under the general titles of “ *the subject,*” “ *ANY OF the said subjects,*” “ *every such person, &c.*” Now the definition of the word “ PERSON, in its relative or civil capacity,” (according to Wood, b. i. c. ii. p. 27.) is either *the King or a subject.* These are the *only capital distinctions* that can be made; though the latter consists of a variety of denominations and degrees: therefore perhaps it may be a dangerous point to advance, that any person whatsoever in England, besides the King, is not *a subject*; lest the same should be construed as a breach of the Statute 23 Eliz. ch. i. (*intituled an Act to retain the Queen’s Majesty’s subjects in their due obedience*) whereby “ *all persons whatsoever*” are liable to the penalties of the said Act, who “ *have, or shall have, or shall pretend to have power, or shall by any ways or means put in practice to absolve, persuade, or with- draw any of the Queen’s Majesty’s sub-*”
“ *jects,*

“jects, or *any* within her Highness’s
 “realms and dominions *from their natural*
 “*obedience to her Majesty.*” &c. sect. ii.

But if I were even to allow that a *Negro Slave* is not a subject (though I think I have clearly proved that he is) yet it is plain, that such an one ought not to be denied the benefit of the King’s courts, unless the Slaveholder shall be able to prove, likewise, that he is not A MAN ; because “EVERY
 “MAN may be *free* to sue for and *defend*
 “*his right* in our courts” (says a Statute 20 Edw. III. ch. iv.) “and elsewhere according to law.” “And NO MAN of *what*
 “*estate* or *condition* that he be” (here can be no exception whatsoever) “shall be
 “put out of land or tenement, NOR TA-
 “KEN, NOR IMPRISONED, nor disinhe-
 “rited, nor put to death, without being
 “brought in answer *by due process of the*
 “*law.*” 28 Edw. III. ch. iii.

“No MAN,” therefore, “*of what estate*
 “*or condition that he be,*” can lawfully be detained in England as a slave, because we have *no law* whereby a man *may be condemned to slavery*, without his own consent, (for even convicted felons must “*in open court*
 “*pray*

“ *pray to be transported* *) and therefore there cannot be any “ *due process † of the law*,” tending to so base a purpose: it follows therefore, that every man who presumes to detain any person whatsoever as a Slave, other wise than by virtue of a written contract, acts manifestly without “ *due process of the law*,” and consequently is liable to the Slave’s “ *action of false imprisonment*,” because “ *EVERY MAN may be free to sue, &c.*” so that the Slaveholder cannot avail himself of his imaginary *property*, either by the assistance of the Common Law, or of a Court of Equity; for in both, his suit will certainly appear unjust and indefensible. The former cannot assist him, because the statute law at present is so far from supposing any man in a state of Slavery, that it cannot even permit such a state, except in the two cases mentioned in the 13th and 14th Section of the Habeas Corpus Act; and the Courts of Equity, likewise, must necessarily decide against him, because his

* See Habeas Corpus Act, Sect. 14.

† An eminent Lawyer who read this book in MS. wrote the following sensible remark therein, viz. “ If force cannot be used, without *legal process*, what *process* can a master obtain to use that force? and therefore how legally compel any man to depart the kingdom?”

mere mercenary plea of *private property*, cannot *equitably* (in a case between *man and man*) stand in competition with that *superior property*, which every man must necessarily be allowed to have in his own *proper person*.

How then is the Slaveholder to secure what he esteems his *property*? Perhaps he will endeavour clandestinely to seize the supposed Slave in order to transport him (“*with or without his consent*”) to the colonies where such *property* is allowed. But let him take care what he does; the *very attempt* is punishable *; and even the making over his *property* to another for *that purpose*, renders him equally liable to the severe penalties of the law; for a bill of sale may certainly be included under the terms expressed in the Habeas Corpus Act, (12th Sect.) viz. “*any warrant or writing*

* Nevertheless, I have heard some persons advise the employing of ruffians or thief-takers for this purpose, with as much confidence, as if they were advising a regular proceeding at law, not seeming to have the least idea of the horrid dishonesty, and dangerous tendency of such violent measures: for no man can be safe, if such *unlawful* practices escape with impunity; because they, who kidnap Negroes, are not less guilty in the eye of the law, than those who kidnap white men; and frequent practices against the liberty of the former, will certainly facilitate attempts against the latter.

“ *for*

“ *for such commitment, detainer, imprisonment, or transportation, &c.*”

It is also dangerous for a counsellor or any other person, *to advise* (see the Act “ *shall be advising,*”) such a proceeding by saying, “ *that a master may legally compel him (the Slave) to return again to the Plantations.*” Likewise an Attorney, Notary Publick, or any other person, who shall presume to draw up, negotiate, or even to witness a bill of sale, or other instrument for such commitment, &c. offends equally against this law; because, “ *All or any person or persons, that shall frame, contrive, write, seal, or countersign ANY WARRANT OR WRITING for such commitment, detainer, imprisonment, or transportation, or shall be ADVISING, aiding, or assisting in the same, or any of them ;*” are liable to all the penalties of the act, “ *And the plaintiff in every such action, shall have judgment to recover his treble costs, besides damages ; which damages, so to be given, shall not be less than five hundred pounds ;*” so that the injured may have ample satisfaction for their sufferings. And even a Judge may not direct or instruct the jury, contrary to this Statute, whatsoever his *private opinion*

opinion may be concerning *property* in Slaves; because, “ *no order or command, nor no injunction*” is allowed to interfere with this golden Act of liberty.

Some have thought that the word *injunction* does not relate to the dictating of a Judge, but to the mandate of the Lord Chancellor, which is sometimes issued to prevent the recovery of excessive damages. But this does not remove the force of the above-mentioned observation; for if the interposition of *equity* is not permitted, so that the *injunction*, even of a Lord Chancellor, cannot remove the literal force of this law, 'tis certain that the injunction of an inferior judge (who is more particularly bound by *the letter of the law*) ought not to avail any thing.

Now if all these things be considered, I think, we may safely prefer the sentiment of that excellent lawyer Lord Chief Justice Holt, (before quoted) to all contrary opinions, viz. that “ *as soon as a Negro comes into England, he becomes free.*” Salkeld's Reports, Vol. ii. p. 666.

END OF THE FIRST PART.

P A R T

Extract from a Statute intituled, “ An
“ Act for the better securing the
“ Liberty of *the subject*, and for
“ Prevention of Imprisonment be-
“ yond the Seas.” Anno trice-
fimo primo Caroli secundi Regis.
A. D. 1679.

Ch. II. Sect. XII.

AND for preventing illegal imprison-
ments in prisons beyond the seas ; (2) be it
further enacted by the authority aforesaid,
that *no subject* of this realm that now is, or
hereafter shall be an inhabitant or resident
of this kingdom of England, dominion of
Wales, or town of Berwick upon Tweed,
shall or may be *sent prisoner* into Scotland,
Ireland,

Ireland, Jersey, Guernsey, Tangier, or into parts, garrisons, *islands, or places beyond the seas*, which are, or at any time hereafter shall be within or without the dominions of his Majesty, his heirs or successors ; (3) and that *every such imprisonment* is hereby enacted and adjudged to be illegal ; (4) and that if *any of the said subjects now is*, or hereafter shall be so imprisoned, *every such person and person so imprisoned*, shall and may for every such imprisonment, *maintain by virtue of this act, an action or actions* of false imprisonment, in any of his Majesty's courts of record, against the person or persons by whom he or she shall be so *committed, detained, imprisoned, sent prisoner or transported*, contrary to the true meaning of this Act, and against *all or any person or persons* that shall *frame, contrive, write, seal or counter-sign* any warrant or writing for such *commitment, detainer, imprisonment, or transportation*, or shall be *advising, aiding or assisting* in the same, or *any of them* ; (5) and the plaintiff in every such action shall have judgment to *recover his treble costs*, besides *damages* ; which damages so to be given, shall not be less than five hundred pounds ; (6) in which action, no delay, stay, or stop

3

of

of proceeding by rule, order or command, nor no injunction, protection or privilege whatsoever, nor any more than one imparlance shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule; (7) and the person or persons who shall *knowingly frame, contrive, write, seal or counter-sign any warrant* for such commitment, detainer or transportation, or shall so commit, detain, imprison or transport any person or persons contrary to this act, or be *any ways advising, aiding or assisting* therein, being lawfully convicted thereof, shall be disabled from thenceforth to bear any office of trust or profit within the said realm of England, dominion of Wales, or town of Berwick upon Tweed, or any of the islands, territories or dominions thereunto belonging; (8) and shall incur and sustain the pains, penalties and forfeitures limited, ordained and provided in and by the statute of provision and præmunire, made in the sixteenth year of King Richard the second; (9) and be incapable of any pardon from the King, his heirs or successors, of the
said

said forfeitures, losses or disabilities, or any of them.

XIII. Provided always, that nothing in this act extend to give benefit to any person, who shall by contract in writing agree with any merchant or owner of any plantation, or other person whatsoever, to be transported to any parts beyond the seas, and receive earnest upon such agreement, although that afterwards such person shall renounce such contract.

XIV. Provided always, and be it enacted, that if any person or persons lawfully convicted of any felony, shall, in open court, pray to be transported beyond the seas, and the court shall think fit to leave him or them in prison for that purpose, such person or persons may be transported into any parts beyond the seas; this Act, or any thing therein contained to the contrary notwithstanding.

XVII. (Memorandum) Prosecution to be made within two years.

P A R T II.

*The Answer to an Objection which has been
made to the foregoing Remarks.*

AN objection has been made to the foregoing remarks, viz. “ That Negro Slaves
“ are most certainly a set of people whom
“ the Legislature had not in consideration or
“ contemplation, at the time of making the
“ several statutes quoted in their favour ;”
and indeed this observation seems not to be without some foundation, for Lord Chief Justice Powell declared, that “ *the law*
“ *takes no notice of a Negro.*” (Holt’s Reports, fol. 495.) We are therefore now to consider, first, Whether or not it be esteemed a defect in our laws, that general and comprehensive

prehensive terms are used instead of a particular recital of every rank and denomination of people who form the community? And secondly, whether any rank or denomination of people can be rendered either exempt from the penalties of the laws, or excluded from their protection on account of their not being particularly mentioned therein?

I have before observed, that the general term "EVERY ALIEN," includes *all strangers whatsoever*, and renders them *subject* to the King and the laws during their residence in this kingdom; and this is certainly true, whether the aliens be Turks, Moors, Arabians, Tartars, or even Savages from any part of the world.

On the other hand, if we were to suppose, that a particular recital of each denomination of strangers is necessary, we should render the laws extremely vague and uncertain; for such a recital would not only be intolerably tedious, but subject to many omissions, and such a continual want of additions as would render them ineffectual in many unforeseen cases; whereas the short general term before-mentioned, must forever remain comprehensive and effectual;

because penal laws for securing the peace, and enforcing morality, are usually calculated to last forever, and are, therefore, necessarily expressed in such general terms, that (as far as human prudence can devise) they may guard against all possible cases of the particular vices which they respectively prohibit.

Indeed the nature of the offence prohibited, (as well as the penalty) ought to be very particularly expressed, but it is always time enough to particularize an offender, when there is sufficient proof against any one.

Men are rendered obnoxious to the laws, by their offences, and not by the particular denomination of their rank, order, parentage, colour or country; and therefore, though we should suppose, that any particular body of people whatsoever were not known, or had in consideration by the Legislature at the different times when the several penal laws were made, yet no one can reasonably conceive, that such men are exempted on this account from the penalties of the said laws, when legally convicted of having offended against them.

Laws calculated for the moral purpose of preventing oppression, are likewise usually supposed to be everlasting, and to make up a part of our happy constitution: for which reason, though the kind of oppression to be guarded against, and the penalties for offenders are minutely described therein, yet the persons to be protected are comprehended in terms as general as possible, that “no person *who now is*, or
 “ *hereafter shall be* an inhabitant or resident in this kingdom,” (see Habeas Corpus Act, sect. xii.) may seem to be excluded from protection.

The general terms of the several statutes before-cited are so full and clear, that they admit of no exception whatsoever, for all persons (Negroes as well as others) must be included in the terms—“the SUBJECT;
 “ —NO SUBJECT OF THIS REALM THAT
 “ NOW IS OR HEREAFTER SHALL BE AN
 “ INHABITANT, &c.—ANY SUBJECT;
 “ —*every such person*. See Habeas Corpus Act. Also EVERY MAN may be FREE
 “ to sue, &c. 20 Edward III. cap. iv. and
 “ NO MAN, OF WHAT ESTATE OR CON-
 “ DITION THAT HE BE, shall be—*taken*
 “ *nor imprisoned*, &c.”

If this be duly considered, I hope it will be granted, that all such general expressions ought to be allowed their due weight, according to the literal meaning of the words, (especially in all cases wherein the relief of a man from oppression is the object) otherwise the sense of the legislature would be continually liable to the perversions of interested or capricious persons.

Would it not be esteemed a great injustice, if any one was to alledge, that a Hungarian, Pole, Muscovite, or alien of any other European nation, is not protected by our laws when in England, because there is a possibility of supposing, that his countrymen might not have been “ *had in* “ *consideration or contemplation* at the time “ of making these laws?”

Now, if this be granted with respect to the more civilized nations, why not to all others?

True justice makes no respect of persons, and can never deny to any one that blessing to which all mankind have an undoubted right, their *natural liberty*.

Though the law makes no mention of Negro Slaves, yet this is no just argument
 3 for

for excluding them from the general protection of our happy constitution.

Neither can the objection, that Negro Slaves were not “ *had in consideration or contemplation*” when these laws were made, prove any thing against them ; but on the contrary much in their favour ; for both these circumstances are strong presumptive proofs, that *the practice* of importing Slaves into this kingdom, and retaining them as such, is an innovation entirely foreign to the spirit and intention of the laws now in force.

This will plainly appear when we consider, that if the importing and retaining of Negroes or others in a state of Slavery, had formerly been permitted in this kingdom, and if the legislature had really intended to countenance the same, a particular exception to that purpose would certainly have been inserted ; because it is (and ever was) well known, that when there are no particular exceptions, the general terms of statutes must have their due weight.

Now if Slavery in this kingdom is really an innovation unknown in law, (I mean in the laws * now in force) how can the vul-

* The intolerable and unjust laws relating to vassalage and villenage, have long been obsolete, and cannot afford

gar plea of *private property in a Slave, as in a horse or a dog*, avail any thing either in equity or law?

It cannot avail in equity, because the liberty of the meanest individual is of much more value and consideration to himself, than any other kind of private property whatsoever can be to another, and therefore his plea in behalf of his own natural liberty is much more reasonable, and ought certainly to be preferred (as I have already observed) before the Slavemonger's mere mercenary claim of private property in his person.

Neither at common law can the latter be recoverable, for Slavery being an innovation entirely foreign to the spirit and intention of the present laws, as is before remarked, there is *no law* to justify proceedings, nor sufficient precedents to authorize judgment.

Nay, it is an innovation of such an unwarrantable and dangerous nature, that besides the gross infringement of the common and natural rights of mankind, it is plainly *contrary* to the laws and constitu-

afford the least plea for the Slaveholder's justification.
See part iv.

tion

tion of this kingdom; for I have shewn, (even from the objection of those who differ from me in opinion) that no laws whatsoever countenance it, and (by my own quotations from the statutes) that several in the clearest though *general* terms render it actionable.

The most dangerous consequences may be expected, if the express letter and force of the law is permitted in any case whatsoever, to be annulled by the *private opinions* of council; but more particularly when *civil liberty* is concerned. I do not mean however to censure *opinions* in general, but only such as are opposed to the laws of the land; and I hope it will be allowed with respect to *my own opinion* in particular, that it is not founded on my own presumption, but on the plainest *literal expressions* of statutes, formed and ordained by the wisdom and authority of King, Lords, and Commons.

October 9,
1767.

GRANVILLE SHARP.

END OF THE SECOND PART.

PART

P A R T III.

An examination of the Advantages and Disadvantages of tolerating SLAVERY in England.

IN the two former parts of this work, I have attempted to demonstrate, that Slavery is an innovation in England, contrary to the spirit and intention of our present laws and constitution. If this opinion be admitted, the following points do, of course, demand the serious consideration of the public.

1st. How far this *innovation* may be esteemed necessary? or whether there are any singular advantages attending it, which should engage us to favour the establishment

ment of it here, in direct opposition both to *law and equity*? And 2^dly, Whether the same is not liable, on the other hand, to be attended with some such unavoidable mischiefs, as would much over-balance any advantages that can possibly be proposed or expected from it?

The only reasonable plea that is usually alledged, for the necessity of Slavery in England, is the security of private property; for it would be unjust (say the advocates for Slavery) that the master's property or right in Slaves, should be determined or varied, by their coming from the West Indies to England.

But before this plea be admitted, we ought to consider the master's reason for bringing a Slave to England.

It cannot be for the sake of a market, to make his money of him, because a stout young Negro; who can read and write, and is approved of in domestic service, is sold for no more than thirty pounds * in

* The Negro, whose liberty the author procured by the authority of the Lord Mayor, was sold in the Poultry Compter for *thirty pounds*; being first unlawfully confined there by the *Seller*, without any warrant whatsoever, and afterwards as unlawfully retained for several days by order of *the Buyer*; both *Buyer* and *Seller* therefore,

England ; whereas it is certain, that such a one might be sold, at least, for the same sum in the West Indies ; and sometimes, perhaps, for near double the money, so that a Slave from thence, not only loads his owner with an additional charge for freight, but is brought to a much worse market.

It is plain therefore, that trade cannot be materially affected, by the putting a stop to such clandestine and unnatural traffic.

And further, if the master brings his Slaves to England, for the sake of their domestic services only, and not for sale, he cannot be said to be really injured, when they regain their liberty ; because I will make it appear hereafter, that he may be served, during his stay in England, full as well, and with as little expence, by free English servants, as he could possibly be by his own Slaves, even if the law would permit him to keep them as such.

therefore, as well as *all their accomplices*, are certainly liable to very severe penalties for false imprisonment ; but the author is rather desirous to instruct these offenders, than to advise a prosecution against them, because the parties themselves (he thinks) are not so much to blame, as those Lawyers whose mistaken opinions are the original causes of such shameful outrages.

But

But suppose the master, by the prejudices of a West Indian education, is so capricious and depraved, that he prefers the constrained service of Slaves to the willing attendance of freemen. Or rather, let us suppose another case, viz.

That a West Indian gentleman comes to England on account of his health, and is *obliged* to bring some Slaves with him, to attend him during the voyage, and that it might perhaps be very inconvenient to lose them on his arrival here.

Now in both these cases there is still a remedy left, which may enable the former supposed person to indulge, in some measure, his capricious humour, and the latter to suit his convenience or necessity, without infringing further upon the civil liberties of this kingdom, than what the laws will warrant.

For when any West Indian gentleman intends to remove to England, he may undoubtedly find a sufficient number of his Slaves, that would gladly enter into a *written agreement*, to return to the West Indies from England, when required, merely for the sake of coming to England.

It

It must be remembered however, that a previous manumission will be necessary, otherwise there can be no legal agreement whatsoever for service; because a Slave who has signed an agreement, may afterwards plead *illegal duress per minas*, &c. which will effectually invalidate his contract in England. (See the 4th. Part.)

But perhaps it may be objected, that the granting of a manumission is prohibited in the colonies by law. And indeed, the laws of Virginia expressly ordain, “ That no
 “ Negro, Mulatto or Indian Slaves, shall
 “ be set free, upon any pretence whatsoever, *except* for some *meritorious services*,
 “ to be adjudged and allowed by the Governor and Council, for the time being,
 “ and a licence thereupon first had and obtained. And, that where any Slave
 “ shall be set free by his master or owner, otherwise than is herein before directed,
 “ it shall and may be lawful for the church-wardens of the parish, wherein
 “ such Negro, Mulatto, or Indian, shall reside for the space of one month, next
 “ after his or her being set free, and they
 “ are hereby authorized and required to
 “ *take up* and SELL the said Negro, Mulatto,
 “ latto,

“latto, or Indian, AS SLAVES *, at the
 “next court held for the said county, by *pub-*
 “*lic outcry, &c.*” † Nevertheless I apprehend, that when the service of an approved Slave is become so necessary to his master, that it cannot, without great inconvenience, be dispensed with; the same ought to be esteemed a *meritorious service*, such as the Governor and Council cannot reasonably disallow.

So that I do not think, a master would find any great difficulty in procuring leave to set free such persons, as he should think necessary *to carry with him out of the colony*; because no man could object, that the

* The cruelty and injustice of this law is too obvious to need any comment. The plea of *self-preservation* and *public security* cannot in the least excuse it, because the same cannot justify any further proceeding, even in the case of an avowed enemy, taken in open war, than the holding the prisoner in safe custody, until there can be a convenient opportunity of ransoming, exchanging or of sending them away with safety to the public, on the conclusion of a peace. But, “to take up and SELL
 “—AS SLAVES,” free persons, to whose services they are not in the least entitled, not having even the vulgar and insufficient plea of *private property* to alledge; this, I say, discovers such a shameful depravity of mind in the law-makers of that province, as is scarcely to be equalled even in Barbary itself.

† 9 George I. cap. iv. sect. xvii. p. 342. of “A
 “Collection of all the Acts of Assembly now in force
 “in the Colony of Virginia.” Printed at Williamsburg 1733.

granting

granting of a manumission in this case, is liable to affect the safety of the colony, even in the least degree.

But there is still another very obvious and natural objection to be removed, before my proposal of a contract can possibly be admitted, viz. That no Slave, after being once made free, would *willingly* enter again into bondage by signing a contract.

This objection would certainly hold good in England, or in any other free country ; but the tyrannical constitution of the British colonies (to the indelible disgrace of the British name) reduces the freedom of any poor man to so low a value, that a bargain for the servitude of such a one, by indenture, might be made on very easy terms*, so far is it from being unnatural, or even uncommon ; therefore the same objection cannot be said to subsist in the colonies ;

* “ Dans tout Gouvernement Despotique on a une facilité à se vendre ; l'Esclavage Politique y aneantit en quelque façon la Liberté Civile.

Mr. Perry a (*dans l'Etat présent de la Grande Russie*, Paris, 1717, in 12°.) dit que les Moscovites se vendent très aisément ; j'en sçai bien la raison, c'est que leur Liberté ne vaut rien.

A Achim tout le monde cherche à se vendre. Quelques-uns des principaux (*for which is quoted “ Nouveau voyage autour du monde par Guill. Dampierre. Tom. 3, Amsterdam, 1711*) Seigneurs n'ont pas moins de mille Esclaves,

for if we consider the cruel and severe restrictions * of the plantation laws, whereby
free

Esclaves, qui sont des principaux Marchands, qui ont aussi beaucoup d'Esclaves sous eux, et ceux-ci beaucoup d'autres ; on en herite et on les fait trafiquer. Dans ces États les hommes libres, trop foibles contre le Gouvernement, cherchent à devenir les Esclaves de ceux qui tyrannisent le Gouvernement." De L'Esprit des Loix. L. 15. c. vi. p. 347. Geneve, 8vo.

* —“ And also, if any Negro, Mulatto, or *Indian*,
 “ BOND or FREE, shall, at any time, lift his, or her
 “ hand, in opposition against any Christian, not being
 “ Negro, Mulatto, or Indian, he or she so offending,
 “ shall, for every such offence, proved by the oath of
 “ the party, receive on his or her bare back, thirty
 “ lashes, *well laid on* ; cognizable by a justice of the
 “ peace of that county wherein such offence shall be
 “ committed.” 4 Ann. c. xlix. sect. xxxiv. Acts of
 Virginia, p. 226.

No allowance is here made for any unjust provocation, which a poor *free* Negro may happen to receive from a licentious, quarrelsome, drunken, or fraudulent white man, who may be pleased to disgrace Christianity, by calling himself a *Christian* !—But peremptorily, if he shall, “ at any time (only) *lift his hand in opposition* “ against *any Christian*, not being Negro, &c.” (howsoever he may have been injured by him)—he—shall “ receive on his bare back, thirty lashes, *well laid on*,” &c. An intolerable subjection this, for those who are called free ! nay it is too base and oppressive to be submitted to even by—Slaves !

Another law (9 Geo. I. c. iv. sect. xiv.) ordains
 “ That no Negro, Mulatto, or Indian whatsoever,
 “ (except as is hereafter excepted) shall hereafter pre-
 “ sume to keep, or carry any gun, powder, shot, or
 “ any club, or other weapon whatsoever, offensive or
 “ (even) DEFENSIVE ; but that every gun, and all
 “ powder and shot, and every *such club or weapon*, as
 “ aforesaid, found or taken in the hands, custody, or
 “ possession of any such Negro, Mulatto or *Indian*, shall
 “ be taken away ; and upon due proof thereof, made
 F. “ before

“ before any justice of the peace of the county where
 “ such offence shall be committed, be forfeited to the
 “ seisor and informer; and moreover, every such Ne-
 “ gro, Mulatto or *Indian*, in whose hands, custody
 “ or possession the same shall be found, shall, by order
 “ of the said justice, have and receive any number of
 “ *lashes*, not exceeding thirty-nine, *well laid on*, on his
 “ or her bare back, for every such offence.”

Sect. xv. “ Provided nevertheless, That every free
 “ Negro, Mulatto or *Indian*, being a *housekeeper*, or
 “ listed in the militia, may be permitted to keep one
 “ gun, powder and shot; and that those who are not
 “ housekeepers, nor listed in the militia aforesaid, who
 “ are now possessed of any gun, powder, shot, or any
 “ weapon, offensive or defensive, may sell and dispose
 “ thereof, at any time before the last day of October
 “ next ensuing. And that all Negroes, Mulattos or
 “ *Indians*, bond or free, living at any frontier plan-
 “ tation, be permitted to keep and use guns, powder
 “ and shot, or other weapons, offensive or defensive;
 “ having first obtained a licence for the same, &c.”
 Idem 342. The disarming of men is the greatest badge
 of Slavery, and there are multitudes of *free Negroes*,
Indians, &c. who are not included in the xvth section
 as *housekeepers*, and cannot therefore have the benefit
 of this exception.

By the 22d section of the same law, (p. 343.) it is
 ordained, “ That where any female Mulatto or *Indian*,
 “ by law obliged to serve till the age of *thirty* or *thirty-*
 “ *one* years, shall, during the time of her servitude,
 “ have any child born of her body, every such child shall
 “ serve the master or mistress of such Mulatto or *In-*
 “ *dian*, until it shall attain THE SAME AGE the mother
 “ of such child was obliged by law to serve unto.”

And the 23d section is equally unjust and oppressive,
 “ That no free Negro, Mulatto, or INDIAN whatsoever,
 “ shall hereafter have ANY VOTE at the election of bur-
 “ gesses, or any other election whatsoever.” Id. p. 344.

An Act of the 17th Charles II. c. viii. sect. ii.
 concerning the *Indians*, ordains,—“ That if any Eng-
 “ lishman be murdered, the next town shall be answer-
 “ able for it, with *their lives or liberties* to the use of
 “ the publick; and that the honourable the Governor
 “ be

“ be humbly requested forthwith to impower such persons as his Honour *shall think fit*, in each county, on such occasions, for putting the said law into immediate execution ;” &c. (Id. p. 37.) Thus a *free* Indian, howsoever innocent, may be *murdered* or *enslaved* according to this unjust law, for the wickedness of another ! nay, not only himself, but also all his relations, friends, and fellow-townsmen, as innocent as himself, and that merely for the single crime of one unknown murderer !

Seet. iii. “ And be it further enacted *by this grand assembly*, that the said *Indians* shall not have power, within themselves, to elect or constitute their own *Verowance*, or chief commander, but the present honourable Governor and his successors, from time to time, shall constitute and authorize such person, in whose fidelity they may find greatest cause to repose a confidence, to be the chief commander of the respective towns : and in case the *Indians* shall refuse their obedience to, or murder such person, then that nation of Indians, so refusing or offending, to be accounted enemies and rebels, and to be proceeded against accordingly.” (Id. p. 37.) Thus our American provincials (though they pretend to be very zealous in the cause of liberty, yet) make no scruple to deprive the poor Indians of their just rights, who are as much intitled to an equitable and reasonable freedom as themselves. It is a shame to this nation, and may in time prove very dangerous to it, that the *British* constitution and liberties should be excluded from any part of the *British dominions* ; for without these, the several nations of East or West Indians, and the mixt people who live therein, cannot have so true an interest in the *British government*, as to engage their fidelity to it. Besides, it is the grossest infringement on the *King's Prerogative*, that “ the influence, benefit, and protection of the King's laws and courts of justice” should not be extended “ to all his Majesty's subjects” of every denomination (Slaves as well as others) even in the remotest parts of the *British empire*. By the present distracted state of Poland, we may learn the great danger of enslaving the common people, and of permitting any particular rank or order of subjects, to exercise,

free Negroes, Mulattoes, Indians, and even
free or indentured white Servants * are
 bound

ercise a despotic power over their fellow subjects: for no government can be safe, where this kind of vassalage, or undue authority prevails.

* By the laws of Virginia, (4 Ann. c. xlix. sect. vii.) a master who “*shall presume to whip a Christian white servant naked*” without an order from a justice of peace, forfeits no more “*for the same,*” than *forty shillings sterling*, to the party injured.” (Id. p. 219.) A very inadequate penalty for so gross an injury! Whereas on the other hand, “*if any servant shall resist the master or mistress, or overseer,*” (it matters not *how justly*, for there is no exception whatsoever) “*or offer violence to any of them, the said servant shall, for every such offence, be adjudged to serve his or her said master or owner, one whole year after the time, by indenture, custom, or former order of court, shall be expired.*” (See sect. xiv. id. p. 221.) The value of a whole year’s service bears no proportion with the penalty of forty shillings on the master, so that there is certainly a *much greater* penalty laid on the servant for a *much less* offence. The same act indeed ordains, (sect. viii.) “*that all servants (not being Slaves) whether imported, or become servants of their own accord here, or bound by any court or church-wardens, shall have their complaints received by a justice of peace, who, if he find cause, shall bind the master over to answer the complaint at court, and it shall be there determined; and all complaints of servants shall and may, by virtue hereof, be received at any time, upon petition, in the court of the county wherein they reside, without the formal process of an action; and also full power and authority is hereby given to the said court, by their discretion, (having first summoned the masters or owners, (as they unjustly call them) to justify themselves, if they think fit) to adjudge, order and appoint, what shall be necessary, as to diet, lodging, clothing, and correction; and if any master or OWNER shall not there-*
 “ upon

“ upon *comply* with the said court's order,” (now I defy any man in this kingdom, who has not read these laws, to guess what follows, I mean, what kind of *relief* the injured party is entitled to ! One would naturally expect that the master should be liable to some very severe penalty, such as men deserve who grind the face of the poor ; or that the *injured* servant should be discharged from all obligation of service for the remaining term of his contract, in order to make him some amends for his sufferings, but then a reasonable *relief* of this kind would not be at all agreeable to the usual *inconsistency* and *injustice* of laws enacted by Slaveholders, and therefore) “ the said court is hereby (continues the act) authorized and impowered, upon a *second* JUST COMPLAINT, to order such servant to be immediately SOLD *at an outcry*, by the Sheriff, and after charges deducted, the remainder of what the said servant shall be SOLD FOR, to be paid and satisfied to SUCH OWNER.”—So that the *owner* (as he is unjustly called) is absolutely to be paid for his vile and scandalous oppression, instead of being punished for it ! “ Provided always” (says the following section ix.) “ and be it enacted, that if *such* Servant” (such as are spoken of in the preceding section, including “ *all Servants, not being Slaves*”, according to the express words of the Act) “ be so sick or lame, or otherwise rendered so incapable, that he or she cannot be *sold* for such a value, at least, as shall satisfy the fees, and other incidents accrued, the said court shall then order the churchwardens of the parish to take care of and provide for the *said* Servant, until *such* Servant's time, due by law to the said master or owner shall be expired, or until *such* Servant” (now mark the GENEROSITY of these lawgivers) “ shall be so recovered, as to *be sold* for defraying the said fees and charges :” A new method this (but not very Christian-like) to reimburse the *charitable* expense of providing for the sick and lame.

In the latter end of the same section it is ordained, that “ the said court, from time to time, shall order the charges of keeping the said Servant, to be levied upon the goods and chattels of the master or owner of the said Servant by distress.” But this can

only mean, that in case the sick Servant shall *not* *so* recover, “ as to be *sold* for defraying the said fees and “ charges,” the master shall then be liable to defray the said charges.—But if it means any thing else, I must acknowledge myself incapable of fathoming so profound an inconsistency. It would take up much more room than I have here to spare, were I to recount the various kinds of oppression, to which *free Servants*, both white and black, are obliged to submit in the colonies. Nevertheless, in the “ Acts of Assembly passed in the island of Barbadoes” (printed at London, 1732) we find still remaining, the titles of many Acts “ TO ENCOURAGE “ the bringing of Christian servants,” &c. but the 45th Act in the said book will inform us what kind of ENCOURAGEMENT Servants are to expect, howsoever specious the promises may be that are made them. “ Where- “ as (says this Act) several Christian Servants, lately “ brought to this island, UPON THE ENCOURAGEMENT “ of an Act dated the 25th of June 1696, and put “ upon the public treasurer and the country’s account, “ are yet unplaced ; Be it enacted, &c.” Then follow some regulations relating to the placing them in the militia ; and afterwards we find the following notable clause of *encouragement*, viz. “ That if, after the va- “ cancies are filled up, as aforesaid, there *shall remain* “ any of THE SAID SERVANTS still undisposed of, that “ then and in such case (upon his Excellency’s warrant to the treasurer of this island for so doing) it “ shall be lawful for the said treasurer TO SELL and “ DISPOSE of SUCH overplus and supernumerary SERVANTS *for the public account*, within one and twenty “ days after publication of this Act, unto any *person* “ or persons THAT WILL BUY and GIVE MOST FOR “ THEM, the same to be applied to the payment of the “ importers of the said Servants, and to no other use “ whatsoever ; any law or custom to the contrary notwithstanding.”

FINE ENCOURAGEMENT this for *Free Christian Servants* !

When a Freeman is thus unwarily enslaved, though it may seem to be only for a limited time, yet his condition becomes almost as uncertain, though not quite so abject and perilous, as that of the poor wretched
Negroes,

Negroes, for he will find himself, as it were *entangled in Slavery*, by a multitude of arbitrary laws, of which, most likely, he had not even the least suspicion beforehand.

Every misdemeanor (though the most natural) is made a pretence to extort servitude, and lengthen this unnatural confinement of Servants. “ If a Servant
“ shall beget a woman Servant with child, then *after*
“ *his time is expired*, he shall serve the owner of the said
“ woman servant *double the time* she had to serve at the
“ time of the offence.” Laws of Barbadoes, No. 21. clause vii. p. 22.

So that in some cases this penalty may be so enormous, as even to include all the prime of a man’s life.

Now if *fornication* is thus severely punished, one would naturally suppose that virtuous Servants, who are inclined to *marry*, might hope for some *encouragement*, or at least, *mercy* from the legislature; but alas! we shall find that these laws do not even aim at justice, and that reason and equity must in every case give place to the private interest of the master. “ If any *Freeman*
“ (says the 8th clause of the same act) shall marry the
“ maid or woman Servant of any person within this
“ island, such *freeman* shall forthwith pay unto the
“ master and owner of such Servant DOUBLE THE
“ VALUE” (a most exorbitant and unjust fine!) “ of
“ what the maid or woman Servant is worth, &c.”—
“ But if he be a Servant, then after his time is ex-
“ pired, he shall serve the owner of the said woman
“ Servant DOUBLE THE TIME she had to serve at such
“ her time of marriage.” p. 23.

Thus marriage and fornication, as if *equally* criminal, are *equally* punished, and that beyond all bounds of proportion to the loss of service, which any master can possibly sustain by either act!

Now if the “ *forbidding to marry*” is to be reckoned amongst “ *the doctrine of devils*,” (see 1 Timothy iv. 1, 3.) to what influence ought we to attribute the dictating of this unnatural and destructive law?

One would suppose, that the *grand enemy of mankind* had likewise been concerned in making an act of the assembly of Virginia against matrimony, (4 Ann, ch. 48. sect. vi. p. 216.)

“ That if any minister or reader shall wittingly
 “ publish, or cause or suffer to be published, the banns
 “ of matrimony, between ANY SERVANTS, or between
 “ a free person and a Servant; or if any minister shall
 “ wittingly celebrate the rites of matrimony between
 “ ANY SUCH, without a certificate from the master or
 “ mistress of every such Servant, that it is done by
 “ their consent, he shall forfeit and pay *ten thousand*
 “ *pounds* of tobacco: and every Servant so married,
 “ without the consent of his or her master or mistress,
 “ shall, for his or her SAID OFFENCE, serve his or her
 “ said master or mistress, their executors, &c. one
 “ whole year, after the time of service by indenture or
 “ custom is expired; and moreover, every person be-
 “ ing free, and so marrying with a Servant, shall, for
 “ his or her SAID OFFENCE, forfeit and pay to the mas-
 “ ter or owner of such Servant, one thousand pounds
 “ of tobacco, or well and faithfully serve the said master
 “ &c.—one whole year in actual service.” But besides
 these natural occurrences occasioned by the mutual
 love of each sex, there are many other circumstances in
 the behaviour of Servants, which these iniquitous laws
 lay hold of to *entrap* and extort involuntary service.

“ Whatsoever Servant or Servants shall wilfully and
 “ obstinately absent himself out of his or her master’s
 “ or mistress’s plantation or service, either on SATUR-
 “ DAY, SUNDAY, or any other days or times, not
 “ having *licence* or *ticket* in writing, &c.—shall for
 “ every two hours absence, &c.—serve his said master
 “ or mistress, *one whole day*, after his time by inden-
 “ ture or custom is expired; so that the same do not,
 “ in the whole, exceed three years, &c.” (Laws of
 Barbadoes, Act xxi. clause x. p. 23.)

Now (as in this case, one whole day must be reckon-
 ed to include a day and a night) it must appear, that a
 Servant in Barbadoes, is unjustly compelled to make
 good every loss of time TWELVE FOLD; which is an
 abominable usury!

By the same act, “ in case any Servant or Servants
 “ in this island” (see proviso to 11th clause) “ shall
 “ through their own wilful misbehaviour happen to have
 “ any disease, or any broken bones, bruises, or other im-
 “ pediments, whereby they have not only disabled them-
 “ selves

“ selves to perform their labour as they ought to do,
 “ but also are a greater charge for physick and chirur-
 “ gery to their master and mistress than formerly;
 “ for satisfaction of such master or mistress in every
 “ such case, the said Servant shall serve his or her said
 “ master or mistress, after the time by indenture or
 “ otherwise is expired, until they have made satisfaction
 “ for the charges expended on them for their recovery.
 “ And afterwards he or she hath so recovered, shall
 “ serve over so much time as he or she, by any such
 “ means and accident, were disabled to serve; any
 “ thing formerly provided to the contrary notwith-
 “ standing.”

A most uncharitable clause! That the rich land-
 holder may not be obliged, even for the furtherance of
 his own service, to relieve his sick and maimed servants
 at *his own expence*, the law gives him full power to ex-
 tort a future involuntary recompence from the bones of
 the unfortunate sufferer!

Is not this to “ *grind the faces of the poor?*” (see
 Isaiah iii. 15. and the judgments denounced there-
 upon.)

But the slaveholder perhaps will endeavour to excuse
 this law, because it includes (says he) no sickness, bro-
 ken bones, &c. but such as are occasioned by the Ser-
 vant’s “ *own wilful misbehaviour.*”

Nevertheless the deceit and injustice of the clause is
 too apparent to be screened by any excuse whatsoever,
 for it was manifestly calculated to oppress and extort
 servitude through the partial construction which may
 too easily be put upon every kind of accident or dis-
 order.

Suppose, for instance, that the sickness, broken
 bones, bruises, &c. are occasioned even by the cruelty
 of the master, or by the servant’s attempt to escape
 and avoid the same, yet such a master will readily al-
 ledge the Servant’s “ *wilful misbehaviour,*” which first
 provoked his severity.

In short, it is much more easy for an avaritious mas-
 ter to attribute any accident or disorder to “ *wilful*
 “ *misbehaviour,*” and to support such a charge before a
 plantation justice, (who inherits the same prejudices as
 himself, and has a similar interest to maintain,) than
 for

for a poor friendless Servant to disprove the charge, howsoever unjust.

And if the latter in such case should seek for redress from a court of justice, and not be able to produce such undeniable evidence, that even partiality itself could not for shame reject it, (for such only he must expect will be admitted by a jury of planters) he might have the mortification to find (like a fly in a cobweb) that all his endeavours to disengage himself, would serve only to entangle him the more, by affording a further occasion for his ungenerous master to prolong his Servitude. For by the 18th clause of the same act it is ordained, “ That what Servants shall so unjustly trouble his master or mistress *with suits in law*, the said Servant shall be, by the court where he commits the offence, ordered to serve his master or mistress *so injured*, for his unlawful and unjust vexation of them” (for so be sure they will esteem it, if the Servant cannot bring such proofs as are before-mentioned) “ after the expiration of the time he hath then to serve, the *double term and space of that time* he neglected.” And the 19th clause ordains, “ That all such Servants as shall be in the gaol for their own offences, shall serve their masters DOUBLE SO LONG TIME after the expiration of the time they have to serve by custom, indenture or contract, as he or they have lain in gaol for such their offences, as aforesaid; and shall further serve his or her said master, after the RATE OF ONE HUNDRED POUNDS OF SUGAR PER MONTH, till he hath satisfied their fees and other charges his master hath expended on him.” Thus a Servant, when his Service is estimated for the advantage of the master, is obliged to make satisfaction after the rate of one hundred pounds of sugar per month; but when the satisfaction is to be made to himself for the *same* service, as his own just due for wages, his service for even five years, though he be above eighteen years of age, (see act 21. clause 16.) is rated only at four hundred pounds of Muscovadoe sugar, which is *merely one fifteenth part* of the former rate. A most iniquitous partiality! But the greatest hardship of all others is, that they are not permitted to leave the colony without a licence: and as it appears that pretences are

are so easily made for the refusal of a discharge, they remain entirely at the mercy of the plantation tyrants, and are obliged to accept of such miserable wages and allowances, as the latter shall think proper to give them, either by indenture or otherwise. Masters of ships are bound by oath, that they “ will not knowingly or willingly carry, &c. ANY SERVANT or “ Slave, that is not attending his or her master, or “ sent by such master or owner.” (see laws of Virginia, p. 370. 12 Geo. I. c. iv. sect. 18.) And by an act of 4 Ann, c. xii. sect. 2. p. 147. “ No master of “ a ship, sloop, boat, or other vessel, shall transport or “ carry ANY SERVANT WHATSOEVER, &c.” without a licence, &c. upon penalty of “ fifty pounds for every “ Servant, &c.” According to a law of Barbadoes, (No. 21. clause 23. p. 27.) Every master of a ship is obliged to give a security of two thousand pounds, that he will not carry away “ ANY SERVANT OR SLAVE,” &c. without the consent of the owner; and he forfeits this bond, till satisfaction be made, if he carries off the island “ ANY FREEMEN, SERVANTS OR SLAVES,” without a ticket for the same. (No. 347. p. 132.)

By the 22d clause of the 21st act, “ a Servant by ONLY “ ENDEAVOURING to get aboard some ship, bark, or “ boat, to escape, &c. shall upon conviction thereof, “ before ANY ONE of his Majesty’s justices of the peace “ for this island, be *condemned* Servant to his master or “ mistress, for the full space and term of three years.” —after the “ first indenture or service by custom shall “ be expired;” and “ before the *same justice*, the said Servant’s hair *to be shaved off*.” Thus, the liberties of Servants are at the mercy of *any one* justice of the peace, who happens to be influenced by their masters or mistresses, or else has a similar interest in the oppression of Servants.

But though there is such great difficulty to escape from the oppressive servitude of the plantations, yet the most flattering and specious promises are made by plantation agents and others, to entice thither poor ignorant Servants and Labourers.—“ The laws also,” (says Mr. Godwyn) “ which are transmitted hither to invite the “ subjects into those parts, are many of them so intricate and obscure, (not to say contradictory and fallacious)

“ cious) that they seem rather to be *traps* and *pit-falls*,
 “ than laws: I shall instance in two. The first is,
 “ that wherein servitude for four years is made the
 “ penalty of accepting of another’s kindness (if I may
 “ so term it;) that is, for permitting one’s self to be
 “ transported *gratis*, when with much seeming curtesie
 “ and importunity offered unto them: for thereby the
 “ party (whether minister or other, without exception)
 “ doth, by virtue of that law, put himself into the
 “ transporter’s power, and is made to become his Ser-
 “ vant, or to ransom himself from that thralldom and
 “ misery at a very great rate, perhaps *four or five times*
 “ *so much as their passage should have cost them.* A deceit
 “ which no *Englishman*, not versed in those *American*
 “ *arts and frauds*, can provide against; and is indeed
 “ the great stay and support of the *kidnapper’s trade*
 “ *and mystery.* A trade that, it is thought, carries off
 “ and consumes not so little as ten thousand people out
 “ of this kingdom yearly; which might have been a
 “ defence to their mother country, but now are many
 “ of them miserably destroyed, without any advantage
 “ to it.” (See the *Negroes and Indian’s Advocate*,
 suing for their Admission into the Church, &c. by
 Morgan Godwyn, London 1680, pages 170 and 171.)
 The laws of Virginia, indeed, profess to discounte-
 nance “ *the kidnapper’s trade*,” yet so trifling and insigni-
 ficant is the penalty against it, that this heinous crime
 seems rather to receive a sanction by law, (since the
 law makes so light of it) than a prohibition.

The act to which I refer is the 4 Anne, cap. xlix. sect.
 v. p. 219.—“ That if any person or persons shall here-
 “ after import into this colony, and here sell as a Slave,
 “ any person or persons that shall have been A FREE-
 “ MAN IN ANY CHRISTIAN COUNTRY, ISLAND, OR
 “ PLANTATION, such importer and seller as aforesaid,
 “ shall forfeit and pay, TO THE PARTY FROM WHOM
 “ THE SAID FREEMAN SHALL RECOVER HIS FREE-
 “ DOM, double the sum for which the said freeman
 “ was sold, &c.”—Now suppose for example sake,
 that a kidnapper should *rob* one hundred poor unwary
 natives of Great Britain or Ireland *of their liberties*, and
 should afterwards be even absolutely *convicted* of stealing
 or trepanning no less than fifty of them, yet he may
 “ be

be said to stand clear of all punishment by this (I think I may very justly say with Mr. Godwyn) "*contradictory and fallacious*" law: because the wages of his iniquity, in rendering one hundred poor men miserable, will be sufficient to insure him from loss, even though so large a proportion *as half of them*, should afterwards find friends (which indeed is very improbable) or opportunity to enable them to *prove* the injury, and convict the offender; and whatever success the said offender may happen to have *above this proportion*, the same will be *all clear gain*, without his running the least risk of corporal punishment, (I mean in this world) any more than if he had dealt in fair merchandize.

The iniquity of this law will appear still more glaring, if we consider, that the penalty is not to be paid to the *injured* person, but "*to the party from whom the said freeman shall recover his freedom*;" that is, in other words, TO THE KIDNAPPER'S ACCOMPLICE, who bought the said freeman; for *the receiver* (as in the case of *stolen goods* in England. See 3 and 4 William and Mary, ch. ix. and 5 Anne ch. 31.) may undoubtedly be accounted "ACCESSARY" to the crime.

The preamble to one of the laws of Barbadoes, (No. 139. p. 72. London Edition, 1732.) bears sufficient testimony of the horrid practices against the liberties of free Servants, as also of other "*artificers and small settlers*," and of the possibility of such person's being held in an unjust Slavery in other colonies; yet the said law ordains no condign punishment for such heinous offences, neither is there any probable remedy proposed therein for the relief of the much injured Servant, &c. There is indeed a fine of 4000 lbs. of sugar laid upon those persons "*who shall bargain, contract, or agree to carry off (that) island any person or persons to serve for time*;" but the same is not made payable by way of damages to the Servant or Artificer, who finds himself *deceived or injured* by such a bargain, but only "*the one-half to him that shall inform for the same, and the other half to the use of (that) island*." Thus it is plain, that the law makers concerned themselves no farther in preventing such gross abuses, than they thought the same might be liable to affect their own private interest, by the decrease of Servants in that island.

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bound and held, without any probability of relief, we need not doubt, but that the greatest part of those, who had before been tolerably well used in their master's family, would be willing, for the sake of a cer-

A former act (No. 21.) contains, indeed, a clause "against bringing Servants against their wills," (see clause ii. p. 21.) which allows Servants "liberty to im-
 "plead the persons who brought them, or to whom they
 "are consigned according to the laws of England, for
 "their freedom, and to recover damages and satisfac-
 "tion for such injurious dealing." But the injured party cannot be benefited by this clause, unless "his or
 "her complaint" is made "to some justice of the
 "peace, within THIRTY DAYS after his or her land-
 "ing in this island, unless they be prevented by *sick-*
 "*ness*, and then within thirty days after he or she is
 "able." So that however merciful this clause may seem at first sight, yet it is certainly destitute of the spirit of the English law, wherein no less a time than *two years* is thought necessary to be allowed for the commencement of such complaint. (See Habeas Corpus Act, sect. 17.) For there are many other accidents and impediments, besides *sickness*, (the only exception allowed in this law of Barbadoes) which might prevent the seeking of redress in so short a time as *thirty days*; so that a poor unhappy Servant may, by this very clause, without any fault of his own, be for ever excluded from the rights of a free-born Englishman.

My small share of leisure will not permit me to be certain, that there are no other laws better calculated for the relief of Servants in such cases, than the last mentioned clause; nevertheless, if we consider the spirit of the several laws which I have already quoted, we may easily guess what kind of redress poor oppressed Servants and Artificers are likely to obtain from such self-interested dispensers of law, as the plantation law-makers.

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tain livelihood, to *contract* themselves again to the same master, or, at least it is probable, that they would be willing to do so upon reasonable and limited terms, such as might render their condition less precarious than the abject and miserable state to which they were formerly *liable* (howsoever indulgent their respective masters might have been to them) through the arbitrary, cruel and inhuman * spirit of plantation legislators. And when this precaution of a written agreement is taken, the indentured Slaves will indeed remain the private property of their masters for the term of their contracts, even in England, (as I have before remarked) and the masters “ *may legally compel them to return again to the plantations*” by virtue of the xiiith sect. of the Habeas Corpus act, provided that they do not *unlawfully* confine or hurt their persons. (See part I. p. 10.)

* According to the laws of Jamaica, printed at London in 1756, “ if any Slave, having been one whole year in this island, (says an act No. 64. clause v. p. 114.) shall run away, and continue absent from his owner’s service for the space of thirty days, upon complaint and proof, &c. before *any two* justices of the peace, and three freeholders, &c. it shall and may be lawful for such justices and freeholders, to order such Slave to be punished by CUTTING OFF ONE OF THE FEET OF SUCH SLAVE, or inflicting such other corporal punishment as they SHALL THINK “ *FIT.*”

“ FIT.” Now that I may inform my readers what corporal punishments are sometimes THOUGHT FIT to be inflicted, I will refer to the testimony of Sir Hans Sloane. (See Voyage to the island of Madera, Barbadoes, Nieves, St. Christophers, and Jamaica, with the natural History of the last of these Islands, &c. London 1707. Introduction, p. 56 and 57.) “ The punishments for crimes of Slaves, (says he) are usually *for rebellions* burning them, by nailing them down on the ground with crooked sticks on every limb, and then applying the fire by degrees from the feet and hands, burning them gradually up to the head, whereby THEIR PAINS ARE EXTRAVAGANT. For crimes of a lesser nature, *gelding, or chopping off half of the foot* with an axe. These punishments are suffered by them with great constancy.—For running away, they put iron rings of great weight on their ankles, or pottocks about their necks, which are iron rings with two long necks rivetted to them, or a spur in the mouth.

“ For negligence, they are usually whipped by the overseers with lance wood switches, till they be bloody, and several of the switches broken, being first tied up by their hands in the mill houses. Beating with manati straps is thought too cruel, and therefore prohibited by the customs of the country. The cicatrices are visible on their skins forever after; and a Slave, the more he have of those, is the less valued. After they are whipped till *they are raw*, some *put on their skins pepper and salt* to make them smart; at other times their masters *will drop melted wax on their skins*, and use several VERY EXQUISITE TORMENTS. These punishments are sometimes merited by the Blacks, who are a very perverse generation of people, and though they appear harsh, yet are scarce equal to some of their crimes, and inferior to what punishments other European nations inflict on their Slaves in the East Indies, as may be seen by Moquet, and other travellers.” Thus Sir Hans Sloane endeavours to excuse those shocking cruelties; but certainly in vain: because no crimes whatever can *merit* such severe punishment, unless I except the crimes of those who devise and inflict them. Sir Hans Sloane,

Sloane, indeed, mentions *rebellion* as the principal crime, and certainly it is very justly esteemed a most heinous crime in a land of liberty, where government is limited by equitable and just laws, if the same are tolerably well observed; but in countries where arbitrary power is exercised with such *intolerable* cruelty, as is before described, if resistance be a crime, it is certainly the most natural of all others.

But the 19th clause of the 38th act, would, indeed, on a slight perusal, induce us to conceive, that the punishment for *rebellion* is not so severe as it is represented by Sir Hans Sloane; because a Slave, though “**DEEMED REBELLIOUS,**” is thereby condemned to no greater punishment than *transportation*. Nevertheless, if the clause be thoroughly considered, we shall find no reason to commend the mercy of the legislature: for it only proves, that the Jamaica law-makers will not scruple to charge the slightest and most natural offences with the most opprobrious epithets; and that a poor Slave, who perhaps has no otherwise incurred his master’s displeasure, than by endeavouring (upon the just and warrantable principle of self-preservation) to escape from his master’s tyranny, without any criminal intention whatsoever, is liable to be **DEEMED REBELLIOUS**, and to be arraigned as a capital offender. For “every
“ Slave and Slaves that shall run away, and continue
“ but for the space of twelvemonths, except such Slave
“ or Slaves as shall not have been three years in this
“ island, shall be deemed **REBELLIOUS, &c.**” (See act xxxviii. clause xix. p. 60.) Thus we are enabled to define, what a West Indian tyrant means by the word **REBELLIOUS**. But unjust as this clause may seem, yet it is abundantly more merciful and considerate than a subsequent act, against the same poor miserable people, because the former assigns no other punishment for persons so **DEEMED REBELLIOUS**, than that they “*shall*
“ *be transported by order of two justices and three freehold-*
“ *ers, &c.*” whereas the latter spares not the blood of these poor injured fugitives.

For by the 66th act, a reward of 50*l.* is offered to those who “shall kill or bring in alive any *rebellious*
“ *Slave;*” that is, any of these unfortunate people, whom the law has “*deemed rebellious,*” as above: and

this premium is not only tendered to commissioned parties, (see 2d clause) but even to any private “*bunter, Slave, or other person*” (see 3d clause). Thus it is manifest, that the law treats these poor unhappy men with as little ceremony and consideration, as if they were merely wild beasts. But the innocent blood that is shed in consequence of such a detestable law, must certainly call for vengeance on the murderous abettors and actors of such deliberate wickedness ! And though many of the guilty wretches should even be so hardened and abandoned, as never afterwards to be capable of *sincere* remorse, yet a time will undoubtedly come, when they will shudder with dreadful apprehensions, on account of the insufficiency of so wretched an excuse, as that their poor murdered bretheren were by law “*deemed rebellious !*” But bad as these laws are, yet, in justice to the freeholders of Jamaica, I must acknowledge, that their laws are not near so cruel and inhuman, as the laws of Barbadoes and Virginia, and seem, at present, to be much more reasonable than they have formerly been, many very oppressive laws being now expired, and others less severe, enacted in their room. The cruel clause (viz. 33d of the 38th Act) whereby “*freed Slaves were to be tried as other Slaves for all offences capital or criminal,*” is repealed by the 153d Act. (clause 3.) No Slave can now be dismembered at the will of his owner, under the penalty of one hundred pounds, by the 4th clause of the 64th Act. And the wilful murder of a Slave is, by the 183d Act, made felony (though with benefit of the clergy;) and is punished by imprisonment, (see clause 1.) and the second offence by death, (see clause 3, &c.)

But it is far otherwise in Barbadoes; for by the 329th Act, p. 125, “*If any Negro or other Slave, under punishment by his master, or his order, for running away, or any other crimes or misdemeanors towards his said master, unfortunately shall suffer in life or member, which seldom happens,*” (but it is plain by this law that it does sometimes happen) “*no person whatsoever shall be liable to any fine therefore: But if any man shall, OF WANTONNESS, OR ONLY OF BLOODY-MINDEDNESS, OR CRUEL INTENTION, WILFULLY KILL A NEGRO OR OTHER SLAVE OF*”

“*HIS*”

"**HIS OWN**"—(Now the reader, to be sure, will naturally expect, that some very severe punishment must in this case be ordained, to deter the *wanton, bloody-minded, and cruel* wretch from *wilfully killing* his fellow creatures; but alas! the Barbadian law-makers have been so far from intending to curb such abandoned wickedness, that they have absolutely made this law, on purpose to screen these enormous crimes from the just indignation of any righteous person, who might think himself bound in duty to prosecute a *bloody-minded* villain: they have, therefore, presumptuously taken upon them to give a sanction, as it were by law, to the horrid crime of *wilful murder*; and have accordingly ordained, that he who is guilty of it in Barbadoes, though the act should be attended with all the aggravating circumstances before-mentioned) "**shall pay into the public treasury**" (no more than) "**FIFTEEN POUNDS STERLING**; but "**if he shall so kill another man's, he shall pay to the** "**owner of the Negro, double the value, and into the** "**public treasury, TWENTY-FIVE POUNDS STERLING**; "**and he shall further, by the next justice of the peace,** "**be bound to his good behaviour, during the plea-** "**sure of the governor and council, AND NOT BE** "**LIABLE TO ANY OTHER PUNISHMENT OR FORFEI-** "**TURE FOR THE SAME, &c."**

The most consummate wickedness, I suppose, that any body of people, under the specious form of a legislature, were ever guilty of!

This same Act contains several other clauses which are shocking to humanity, though too tedious to mention here.

According to an Act of Virginia, (4 Anne ch. xlix. sect. xxxvii. p. 227.) after proclamation is issued against Slaves that "**run away and lie out**" it is "**lawful for** "**any persons whatsoever, TO KILL AND DESTROY** "**such Slaves by SUCH WAYS AND MEANS, as he, she,** "**or they SHALL THINK FIT, without accusation or** "**impeachment of any crime for the same, &c."** And lest *private* interest should incline the planter to mercy, (to which we must suppose such people can have no other inducement) it is provided and enacted in the succeeding clause (No. 38.) "**That for every Slave** "**killed, in pursuance of this Act, or put to death by** "**law,**

“ law, the master or owner of such Slave *shall be paid*
 “ *by the public.*”

Also, by an Act of Virginia (9 Geo. I. ch. iv. sect. xviii. p. 343.) it is ordained, “ That, where any
 “ Slaves shall hereafter be found notoriously guilty of
 “ going abroad in the night, or running away, and
 “ lying out, and cannot be reclaimed from such dis-
 “ orderly courses, by the common method of punish-
 “ ment, it shall and may be lawful, to and for the
 “ court of the county, upon complaint and proof
 “ thereof to them made, by the owner of such Slave,
 “ to order and direct every *such* Slave to be punished,
 “ by DISMEMBERING OR ANY OTHER WAY, not
 “ touching life, as the said county court SHALL THINK
 “ FIT.”

I have already given examples enough of the horrid cruelties which are sometimes THOUGHT FIT, on such occasions. But if the innocent, and most natural act of “ *running away*” from intolerable tyranny, deserves such relentless severity, what kind of punishment have these law-makers themselves to expect hereafter, on account of their own enormous offences ! Alas ! to look for mercy (without a timely repentance) will only be another instance of their gross injustice ! “ *Having their consciences scared with a hot iron,*” they seem to have lost all apprehension, that their Slaves are men, for they scruple not to number them with beasts.

See an Act of Barbadoes, (No. 333. p. 128.) intitled, “ an Act for the better regulating of OUTCRIES
 “ in open market :” here we read of “ NEGROES,
 “ CATTLE, COPPERS AND STILLS, AND OTHER
 “ CHATTELS, *brought by execution to open market, to be*
 “ *outcried ;*” and these (as if all of equal importance) are ranged together, “ *in great lots or numbers to be*
 “ *sold.*”

This unnatural inventory “ OF NEGROES, CATTLE,
 “ COPPERS AND STILLS, AND OTHER GOODS OR
 “ CHATTELS” is repeated, nearly in the same words, no less than six times in the 1st clause. Also, “ the
 “ marshal is hereby required” (says the same clause)
 “ to dispose *the Negroes and other chattels aforesaid, into*
 “ *lots, not exceeding the number of FIVE NEGROES*
 “ IN ONE LOT, unless it happen that there be more
 “ than

“ than five of one family of Negroes ; in which case,
 “ it shall be lawful for the marshal to SELL A WHOLE
 “ FAMILY IN ONE LOT ; and also the marshal is
 “ hereby required not to SELL above FIVE HEAD OF
 “ CATTLE, and *one copper, or one still in one lot, &c.*”

Thus it too plainly appears, that the Barbadians rank their Negroes with their beasts, so that we need not be surprized, that the former of these are no more instructed in religion, than the latter. But this abominable insult to human nature, bad as it is, yet is not half so criminal, as the deliberate and arbitrary attempt of the assembly at Barbadoes, under the name and sanction of law, to deter others from affording that instruction, which they themselves so uncharitably deny.

The law to which I refer, is the 198th Act, p. 94, intitled, “ an Act to prevent people called Quakers, from bringing Negroes to their meetings.”

The preamble is as follows :—“ Whereas of late,
 “ many Negroes have been suffered to remain at the
 “ meeting of Quakers, as hearers of their doctrine, and
 “ taught in their principles, whereby the *safety* of this
 “ island may be *much hazarded, &c.*”——But is not the *safety* of the island *more hazarded* by suffering an immense multitude of poor ignorant heathens to remain *uninstructed*, even within the families and plantations of a people who call themselves Christians? And is not this danger, likewise, apparently increased, by the barbarous treatment and inhuman insults, which the former daily receive from these nominal Christians, inso-much, that they must necessarily detest the very name of Christians? So much for the reason of the act.—I now proceed to the penalties of it. The first clause
 “ ordains, “ That if, at any time or times after pub-
 “ lication hereof, any Negro or Negroes be found with
 “ the said people called *Quakers*, at any of their meet-
 “ ings, and as hearers of their preachings, that such
 “ Negro or Negroes, shall be forfeited, &c.” And by the second clause it is enacted, “ That if such Negro
 “ or Negroes, being at the meetings aforesaid, and doth
 “ NOT belong to any of the persons present at the
 “ same meeting, then may any person or persons bring
 “ an action grounded upon this statute, against ANY of
 “ the

“ the persons present at the said meetings, at the elec-
 “ tion of the informer, for the sum of ten pounds
 “ sterling, for *every Negro and Negroes so present, as*
 “ *aforsaid, and shall recover ten pounds sterling for*
 “ *EVERY such Negro and Negroes, &c.*”

So that an innocent man, merely by being present at a Quakers meeting, may incur, not only the severe penalty of ten pounds sterling, but of as many ten pounds as there shall happen to be Negroes in the meeting, whether he be concerned in bringing any of them thither or not. And in some cases the fine may be so excessive, that even a substantial Quaker is liable to be ruined by a malicious information.

This act, however, does more honour to the Quakers, than the Barbadians, perhaps, are aware of: for it is certainly a lasting monument of the sincerity of the former, and of the detestable injustice and irreligion of the latter. Though I am sufficiently aware of the enormous errors of the Quakers, having carefully perused most of their principal authors, yet am I convinced, that their charitable endeavours to instruct these poor Slaves to the best of their knowledge and belief, will render them more acceptable to God, than all the other sects of nominal Christians, (howsoever orthodox in profession of faith) who either oppose or neglect the same. Is it not a great aggravation of guilt in the latter, that they profess the knowledge of what is right, and yet behave as if themselves were heathens and barbarians? O! that this exemplary charity of the Quakers (howsoever despicable their doctrines appear in many other respects) may provoke to jealousy and amendment those lukewarm Christians, who profess, and dishonour a more orthodox faith: lest the heavy judgements of God should speedily overtake them, or permit them to be reduced, in their turn, to a deplorable servitude under barbarians, as unmerciful as themselves!

“ In the 32nd act of Barbadoes (p. 122.) it is asserted, that “ brutish Slaves, deserve not, for the baseness of their condition, to be tried by a legal trial of
 “ *twelve men of their peers or neighbourhood, which nei-*
 “ *ther truly can be rightly done, as the subjects of*
 “ *England are,*” (yet Slaves also are subjects of Eng-

land, whilst they remain within the British dominions; notwithstanding this insinuation to the contrary) “ nor
 “ is execution to be delayed towards them, in case of
 “ such horrid crimes committed, &c.”

A similar doctrine is taught in an act of *Virginia*, (9 Geo. I. c. iv. sect. iii. p. 339.) wherein it is ordained,
 “ that every Slave committing such offence, as by the
 “ laws ought to be punished by DEATH, or LOSS OF
 “ MEMBER, shall be forthwith committed to the com-
 “ mon gaol of the county, &c.—And that the sheriff
 “ of such county, upon such commitment, shall forth-
 “ with certify the same, with the cause thereof, to the
 “ governor or commander in chief, &c. who is there-
 “ upon desired and impowered to issue a commission of
 “ oyer and terminer, TO SUCH PERSONS AS HE SHALL
 “ THINK FIT: which persons, forthwith after the
 “ receipt of such commission, are impowered and re-
 “ quired to cause the offender to be publicly arraigned
 “ and tried, &c.—*without the solemnity of a jury, &c.*”
 Now let us consider the dangerous tendency of those laws.

As Englishmen, we strenuously contend for this absolute and immutable necessity of trials by juries: but is not the spirit and equity of this old English doctrine entirely lost, if we partially confine that justice to ourselves alone, when we have it in our power to extend it to others? The *natural right of all mankind* must principally justify our insisting upon this necessary privilege in favour of ourselves in particular; and therefore if we do not allow, that the judgment of an impartial jury is indispensably necessary in all cases whatsoever, wherein the life of a man is depending, we certainly undermine the equitable force and reason of those laws, by which we ourselves are protected, and consequently are unworthy to be esteemed either Christians or Englishmen.

Whatsoever right the members of a provincial assembly may have to enact *bye-laws*, for particular exigences among themselves, yet in so doing, they are certainly bound, in duty to their Sovereign, to observe, most strictly, the fundamental principles of that constitution, which his Majesty is sworn to maintain; for wheresoever the bounds of the British empire are extended, there the Common Law of England must of course

take place, and cannot safely be set aside by any *private law* whatsoever, because the introduction of an unnatural tyranny must necessarily endanger the King's dominions. The many alarming insurrections of Slaves in the several colonies; are sufficient proofs of this. The Common Law of England ought therefore to be so established in every province, as to *include* the respective *bye-laws* of each province, instead of being by them *excluded*; which latter has been too much the case.

Every inhabitant of the British colonies, black as well as white, bond as well as free, are undoubtedly *the King's subjects*, during their residence within the limits of the *King's dominions*, and as such, are entitled to personal protection, howsoever bound in service to their respective masters. Therefore; when any of these are put to death; "WITHOUT THE SOLEMNITY OF A JURY," I fear that there is too much reason to attribute THE GUILT OF MURDER, to every person concerned in ordering the same, or in consenting thereto; and all such persons are certainly responsible TO THE KING AND HIS LAWS; *for the loss of a subject*. The horrid iniquity, injustice, and dangerous tendency of the several plantation laws, which I have quoted, are so apparent, that it is unnecessary for me to apologize for the freedom with which I have treated them. If such laws are not absolutely necessary for the government of Slaves, the law-makers must unavoidably allow themselves to be the most cruel and abandoned tyrants upon earth, or perhaps, that ever were on earth. On the other hand, if it be said, that it is impossible to govern Slaves without such inhuman severity and detestable injustice, the same will certainly be an invincible argument against the least toleration of Slavery amongst Christians; because the temporal profits of the planter or master, howsoever lucrative, cannot compensate the forfeiture of his everlasting welfare, or (at least I may be allowed to say) the apparent danger of such a forfeiture.

Oppression is a most grievous crime; and the cries of these much injured people (though they are only poor ignorant heathens) will certainly reach to Heaven! The Scriptures (which are the only true foundation of all laws) denounce a tremendous judgment against
the

But suppose a Slave should absolutely refuse to enter into such a *written agreement*, and yet the service of that Slave, either on account of his known fidelity or capacity, is become so necessary to the master, that he cannot easily dispense with it.

the man, who should *offend* even ONE *little one*. “It were better for him,” (even the merciful Saviour of the world hath himself declared) “that a millstone were hanged about his neck, and he cast into the sea, than that he should *offend* ONE of these *little ones*.” Luke xvii 2. Who then shall attempt to vindicate those inhuman establishments of government, under which even our own countrymen so grievously OFFEND and OPPRESS, (not merely ONE, or a few *little ones*, but) an immense multitude of *men, women, children, and the children of their children*, from generation to generation? May it not be said with like justice—It were better for the English nation, that these American dominions had never existed, or even that they should have been sunk into the sea, than that the kingdom of Great Britain, should be loaded with the horrid guilt of tolerating such abominable wickedness! In short, if THE KING’S PREROGATIVE is not speedily exerted for the *relief* of his Majesty’s oppressed and much injured subjects in the British colonies, (because to *relieve the subject* from the oppression of petty tyrants, is the principal use of royal prerogative, as well as the principal and most natural means of maintaining the same) and for the extension of the British constitution to the most distant colonies, whether in the East or West Indies, it must inevitably be allowed, that great share of this *enormous guilt* will certainly rest on this side of the water!

I hope this hint will be taken notice of by those whom it may concern; and that the freedom of it will be excused, as from a *loyal and disinterested* adviser.

When-

Whenever this happens to be the case, the master will be apt to think himself much aggrieved by the civil liberty and custom of England, which deprives him of the *constrained service* of his useful Slave, but for my part, I think it cannot be esteemed an unreasonable hardship upon the master, that he should be obliged to make it the interest of such a very useful person, to serve and attend him willingly, though it should be at the expence even of the highest rate of Servants wages (beside the loss of property by the manumission) “ *for the Labourer is worthy of his hire**”.

I do not apprehend, that the above supposed case will be very general, but if it should, 'tis certainly better, that some hardship should lie upon those selfish masters, who might be ungenerous enough *to think it a hardship*, than that a real and national inconvenience should be felt, by permitting every person (without any inconvenience to himself) to increase the present stock of black Servants in this king-

* St. Luke x. 7. See also Timothy v. 18. “ For the Scripture saith, thou shalt not muzzle the ox that treadeth out the corn : and, the labourer is worthy of his reward.”

dom, which is already much too numerous. Therefore, even if there should be really any inconvenience or hardship upon the master, contrary or different to what I have supposed, 'tis certainly not to be lamented, because the public good seems to require some restraint of this unnatural increase of black subjects.

Though the advocates for Slavery should set forth their plea of PRIVATE PROPERTY (the only plea they can alledge with any the least appearance of justice) in the very best light that it is capable of, yet I flatter myself, that the foregoing considerations will be sufficient to balance it : because A PRIVATE PROPERTY, *which is unnatural in itself, inconvenient and hurtful to the public, and (above all) plainly contrary to the laws and constitutions of this kingdom,* cannot justly be otherwise esteemed, *than as A PRIVATE PROPERTY in contraband goods,* the forfeiture of which, no good citizen ought to regret.

It cannot reasonably be alledged, that the service of Slaves is necessary in England, whilst so many of our own free fellow-subjects want bread.

If the English labourer is not able, with hard work, to earn more than what will
barely

barely provide him his necessary food and coarse or ragged cloathing, what more can his employer reasonably desire of him, even if he were his Slave?

The mere boarding and cloathing of a Slave in England (if human nature is not depressed and vilified) will undoubtedly be as expensive to the master, as the wages of English labourers, if not more so; because poor men can generally provide for themselves at a cheaper rate, and will put up with inconveniencies (when the same are voluntary), which would really be oppressive, nay, even intolerable, from the hand of another person.

But, besides the necessary charges of eating and cloathing, there are other expences over and above, to which the employer of free labourers is not subject, viz. the prime cost, as well as freight of the Slave; Apothecaries and Surgeons Bills on account of sickness and accidents, and a multitude of other unavoidable articles, which must be defrayed by the master.

Now, though the advocates for Slavery should be obliged to allow this (as I think they must) with respect to labourers, yet perhaps they will still urge, that there is
never-

nevertheless a considerable advantage by Slaves, when they are kept as domestics, because no wages are paid; whereas, free Servants are not only cloathed and boarded at the master's expence as well as the others, but receive wages into the bargain.

This reasoning, at first, seems plausible; but on the other hand, let us set off the annual interest of the Slave's price in part of wages, and then divide the principal sum itself into as many portions as the average number of years, that a Slave is usually capable of being useful. Besides this, the uncertainty of health and life, must be thrown into the scale, unless the expence of insurance upon these precarious circumstances be likewise added; otherwise the principal sum itself is laid out on a very bad security.

Now when all these things are weighed and compared with the common rate of Servants wages, there will not appear to be any great saving in the employing of Slaves; especially if it be considered, that healthy and comely boys and girls, the children of our own free fellow-subjects may be procured out of any county in this or the neighbouring kingdoms, to serve as

Ap-

apprentices or servants, for six or seven years or more *, without any wages at all ; which ought certainly to be remembered, when the average rate of wages to Servants and labourers is mentioned.

Therefore upon the whole, I think it must appear, that the service of Slaves in England, would be quite as expensive, as that of freemen, and consequently, that there cannot be any real advantages in a toleration of Slavery in this kingdom ; at least, I am not able to point them out, though I have carefully considered the subject. So much for my first proposition.

I am now to consider the mischiefs which a toleration of Slavery would be liable to produce, according to my second proposition.

The learned Montesquieu † observes,

* “ And children of poor persons may be apprenticed out by the overseers, with consent of two justices, till twenty-four years of age, to such persons as are thought fitting; who are also compellable to take them : and it is held, that gentlemen of fortune and clergymen, are equally liable with others to such compulsion, &c.” Commentaries on the laws of England, by William Blackstone, Esq; 3 edit. vol. I. b. i. ch. xiv. p. 426.

† De L'Esprit des Loix, liv. xv. ch. i. p. 340. “ Il n'est pas bon par sa nature ; il n'est utile ni au maître ni à L'Esclave ; à celui-ci parcequ'il ne peut rien faire par vertu ; à celui-la parcequ'il contracte avec
“ ses

concerning Slavery ; that “ it is not good
 “ in its nature,” that “ ’tis neither useful
 “ to the master nor Slave ; to this, because
 “ he can do nothing through principle (or
 “ virtue ;) to the other, because he con-
 “ tracts with his Slaves all sorts of bad
 “ habits, insensibly accustoms himself to
 “ want all moral virtues whatsoever, and
 “ becomes haughty, hasty, hard-hearted,
 “ passionate, voluptuous and cruel.”

I could willingly transcribe, not only the succeeding part of this chapter, as being much to my purpose, but even the whole fifteen following chapters, for the same reason ; but as they would be much too long for a quotation, and yet contain nothing superfluous, I must beg to refer my readers to the author himself.

A toleration of Slavery is, in effect, a toleration of inhumanity ; for there are wretches in the world, who make no scruple to gain, by wearing out their Slaves with continual labour and a scanty allowance, before they have lived out half their natural days. ’Tis notorious, that this is

“ ses Esclaves toutes sortes de mauvaises habitudes,
 “ qu’il s’accoutume insensiblement à manquer à toutes
 “ les vertus morales, qu’il devient fier, prompt, dur,
 “ colére, voluptueux, cruel.”

too often the case, in the unhappy countries where Slavery is tolerated.

See the "account of the European settlements in America," Part vi. chap. xi. concerning the "*Misery of the Negroes.*" "*Great waste of them,*" &c. which informs us, not only of a most scandalous profanation of the Lord's day, but also of another abomination, which must be infinitely more heinous in the sight of God; viz. oppression carried to such excess, as to be even destructive of the human species.

At present the inhumanity of *constrained labour in excess* extends no farther in England, than to our beasts, as post and hackney horses, sand asses, &c.

But thanks to our laws, and not to the general good disposition of masters, that it is so; for the wretch, who is bad enough to maltreat a helpless beast, would not spare his fellow man, if he had him as much in his power.

The maintenance of civil liberty is therefore absolutely necessary to prevent an increase of our national guilt, by the addition of the horrid crime of tyranny.

It is not my business at present to examine, how far a toleration of Slavery may
be

be necessary or justifiable in the West-Indies. 'Tis sufficient for my purpose, that it is not so here. But notwithstanding, that the plea of necessity cannot here be urged, yet this is no reason, why an increase of the practice is not to be feared.

Our North American colonies afford us a melancholy instance to the contrary—for tho' the climate in general is so wholesome and temperate, that it will not authorize this plea of necessity for the employment of Slaves, any more than our own, yet the pernicious practice of Slave-holding is become almost general in those parts.

At New York, for instance, this infringement on civil or domestic liberty is become notorious and scandalous, notwithstanding that the political controversies of the inhabitants are stuffed with theatrical bombast and ranting expressions in praise of liberty.

But no panegyrick on this subject (how-so ever elegant in itself) can be graceful or edifying from the mouth or pen of one of those Provincials; because men, who do not scruple to detain others in Slavery, have but a very partial and unjust claim to the protection of the laws of liberty: and in-

deed it too plainly appears, that they have no real regard for liberty, farther than their own private interests are concerned; and (consequently) that they have so little detestation for despotism and tyranny, that they do not scruple to exercise them with the most unbounded rigour, whenever their caprice excites them, or their private interest, seems to require an exertion of their power over their miserable Slaves.

Every petty planter, who avails himself of the service of Slaves, is an arbitrary monarch, or rather a lawless Basha in his own territories, notwithstanding that the imaginary freedom of the province, wherein he resides, may seem to forbid the observation.

The *boasted liberty* of our American colonies, therefore, has so little right to that sacred name, that it seems to differ from the arbitrary power of despotic monarchies only in one circumstance; viz. that it is a *many-headed monster of tyranny*, which entirely subverts our most excellent constitution; because liberty and slavery are so opposite to each other, that they cannot subsist in the same community.

“ Political liberty * (in mild or well regulated governments) makes civil liberty valuable; and whosoever is deprived of the latter, is deprived also of the former.”

This observation of the learned Montesquieu, I hope, sufficiently justifies my censure of the Americans, for their notorious violation of civil liberty.

Indeed I don't at present recollect, that I ever read any of the American newspapers; except one, viz. “ the New-York Journal, or the General Advertiser,” for Thursday 22d October, 1767, No. 1294. But even this one was sufficient to give me a thorough disgust, not less to their extravagant manner of reasoning in defence of liberty, (Hyperion's letter, to wit) than to their shameless infringement upon it by an open profession and toleration of Slaveholding.

This one news-paper gives notice by advertisement, of no less than *eight different persons* who have escaped from Slavery, or are put up to public sale for that horrid purpose.

* “ La Liberté politique” (dans les états modérés) y rend précieuse la Liberté civile; et celui qui est privé de cette dernière est encore privé de l'autre.” L'Esprit des Loix, tom. i. liv. xv. ch. xii. p. 353.

That I may demonstrate the indecency of such proceedings in a free country, I shall take the liberty of laying some of these advertisements before my readers, by way of example.

“ To be sold for want of employment.”

“ A likely strong active Negro man,
 “ of about 24 years of age, this country
 “ born,” (*N. B. a natural born subject*)
 “ understands most of a Baker’s trade, and
 “ a good deal of farming business, and can
 “ do all sorts of house-work ; also a healthy
 “ Negro wench of about 21 years old,
 “ is a tolerable cook, and capable of doing
 “ all sorts of house-work, can be well recommended
 “ for her honesty and sobriety ;
 “ she has a female child of nigh 3 years
 “ old, which will be sold with the wench,
 “ if required, &c.”

Here is not the least consideration or scruple of conscience for the inhumanity of parting *the mother* and *young child*. From the stile, one would suppose the advertisement to be of no more importance, than if it related merely to the sale of a *cow* and *her calf* ; that *the cow* should be sold with or without *her calf*, according as the purchaser should require.

The following extract from Sir Hans Sloane's introduction to his Natural History of Jamaica, before quoted, will enable us to form some idea of the deep affliction with which the poor Negroes are affected upon such occasions, and consequently the gross inhumanity of this advertisement will more plainly appear. " The Negroes (says he) " are usually thought to be haters of their " own children, and therefore 'tis believed, " that they sell and dispose of them to " strangers for money, BUT THIS IS NOT " TRUE, for the Negroes of Guinea being " divided into several captainships, as well " as the Indians of America, have wars, " and besides those slain in battles, many " prisoners are taken, who are sold for " Slaves, and brought hither. But the " parents here, although their children are " Slaves for ever, YET HAVE SO GREAT " LOVE FOR THEM, that no master dare " sell or give away one of their little-ones, " unless they *care not* whether their pa- " rents HANG THEMSELVES OR NO."

But not only Negroes, but even American Indians are detained in the same abominable Slavery in our colonies, though there cannot be any reasonable pretence

whatsoever, for holding one of these as *private property*: for even if a *written contract* should be produced as a voucher in such a case, there would still remain great suspicion, that some undue advantage had been taken of the Indians ignorance concerning the nature of such a bond.

“ Run away, on Monday the 21st instant, from J—n Th——s, Esq; of West
 “ Chester County, in the province of New
 “ York, an *Indian Slave*, named Abraham,
 “ he may have changed his name, about
 “ 23 years of age, about 5 feet 5 inches
 “ high, *yellow complexion, long black hair*
 “ *something curled*; a thick set fellow, one
 “ of his fore teeth in the lower jaw broke
 “ off, &c. *.”

Nay! this licentious and unnatural tyranny is become so familiar in our colonies, that they venture sometimes to advertise Slaves, without even deigning to distinguish their complexion at all, of which

* “ If he smite out his man servant’s tooth, or his
 “ maid servant’s tooth, he shall let him go free for his
 “ tooth’s sake.” Exodus xxi. 27.

See another advertisement in the same news-paper, signed by Samuel A. Br—tt of Schenectady, wherein an absconded Negro is also described by marks of injury, viz. “ Has a scar under his right eye,—and is without his
 “ two front teeth under teeth, &c.”

the

the following advertisement in the same paper is a proof.

“ *To be sold for* NO FAULT, *a very good*
 “ *Wench,* twenty-two years old; *with a*
 “ *child* eighteen months old. Enquire of
 “ *the Printer.*”

By such a description as this, a trepanned English woman might be sold, as well as a Negro or Indian.

Upon the whole, I think, I may with justice conclude, that these advertisements discover such a shameless prostitution and infringement on the common and natural rights of mankind, as may entitle the province where they were published, to the name of New Barbary, rather than of New York!

But hold! perhaps the Americans may be able, with too much justice, to retort this severe reflection, and may refer us to news-papers published even in the free city of London, which contain advertisements, not less dishonourable than their own. See advertisement in the Public Ledger of 31 December, 1767.

“ For sale, A healthy Negro Girl, aged
 “ about fifteen years, speaks good English,
 “ works at her needle, washes well, does
 “ household

“ household work, and has had the small-
 “ pox. By J. W. at Mr. M'Auley's, the
 “ Amsterdam Coffee-house, near the Ex-
 “ change, from twelve till two o'clock
 “ every day.”

Another advertisement, not long ago, offered a reward for stopping a female Slave, who had left her mistress in Hatton-Garden. And in 'the Gazetteer of 18 April, 1769, appeared a very extraordinary advertisement, with the following title,

“ HORSES, TIM WISKY, and *Black Boy*.”

“ To be sold, at the Bull and Gate Inn,
 “ Holborn, a very good Tim Wisky, little
 “ the worse for wear, &c.” afterwards,
 “ *a Chestnut Gelding*,”——then, “ *a very*
 “ *good Grey Mare*,”——and last of all, (as
 if of the least consequence) “ *a well made,*
 “ *good-tempered Black Boy*; he has lately
 “ had the small-pox, and will be sold to
 “ any Gentleman. Enquire as above.”

Another advertisement in the same paper contains a very particular description of “ a
 “ Negro man, called Jeremiah or Jerry
 “ Rowland,”——and concludes as follows—
 “ whoever delivers him to Capt. M-ll-y,
 “ on board the Elizabeth, at Prince's Stairs,
 “ Ro-

“ Rotherhithe, on or before the 31st in-
 “ stant, shall receive *thirty guineas reward*,
 “ or *ten guineas* for such intelligence as
 “ shall enable the captain or his master”
 (Patrick B—rke, Esq; mentioned above)
 “ effectually to secure him. The utmost
 “ secrecy may be depended on.” It is not
 on account of *shame*, that men, *who are*
capable of undertaking the desperate and
 wicked employment of kidnappers, are sup-
 posed to be tempted to such a business, by
 a promise of “ *the utmost secrecy*,” but this
 must be from a *sense* of the *unlawfulness of*
the act proposed to them, that they may
 have less reason to fear a prosecution. And
 as such kind of people are supposed to un-
 dertake any thing for money, the reward
 of thirty guineas was tendered at the top
 of the advertisement in capital letters. No
 man can be safe, be he *white* or black, if
temptations to break the laws are so shame-
 fully published in our news-papers.

“ A Creole Black Boy” is also offered to
 sale, in the Daily Advertiser of the same
 date.

Besides these instances, the Americans
 may perhaps taunt us with the shameful
 treatment of a poor Negro servant, who
 not

not long ago was put up to sale by public auction, together with the effects of his bankrupt master.

Also that the prisons of this free city have been frequently prostituted of late by the tyrannical and dangerous practice of confining Negroes, under the pretence of Slavery, though there has been no Warrants whatsoever for their commitment.

This circumstance of confining a man without a warrant, has so great a resemblance to the proceedings of a Popish Inquisition, that it is but too obvious what dangerous practices such scandalous innovations (if permitted to grow more into use) are liable to introduce.

No person can be safe, if wicked and designing men have it in their power, under the pretence of private property as a Slave, to throw a man clandestinely without a warrant into goal, and to conceal him there, until they can conveniently dispose of him.

A freeman may be thus robbed of his liberty and carried beyond the seas, without having the least opportunity of making his case known; which should teach us how jealous we ought to be of all imprisonments made

without the authority or previous examination of the civil magistrate.

The distinction of colour will, in a short time, be no protection against such outrages, especially as not only Negroes, but Mulattos, and even *American Indians*, (which appears by one of the advertisements before quoted) are retained in Slavery in our American colonies; for there are many honest weather-beaten Englishmen, who have as little reason to boast of their complexion as the Indians. And indeed the more northern Indians have no difference from us in complexion, but such as is occasioned by the climate or different way of living. The plea of *private* property, therefore, cannot by any means justify a *private* commitment of any person whatsoever to prison, because of the apparent danger and tendency of such an innovation.

This dangerous practice of concealing in prison, was attempted in the case of Jonathan Strong; for the door keeper of the P—lt—y C—pt—r (or some person who acted for him) absolutely refused for two days to permit this poor injured Negro to be seen or spoke with, though a person went on purpose both those days to demand the same.

How-

However, in excuse for the Londoners, I have the satisfaction to observe, that the practice of Slave-holding is now only in its infancy amongst us ; and Slaves are at present employed in no other capacity, than that of Domestic Servants. But if such practices are permitted much longer with impunity, *the evil will take root ; precedent and custom will too soon be pleaded in its behalf ;* and as Slavery becomes more familiar in our eyes, mercenary and selfish men may take it into their heads, to employ their Slaves (not merely in domestick affairs as at present, but) in husbandry ; so that they may think it worth their while to breed them like cattle on their estates, as they do even in the North American colonies, though the children of Slaves, born there, are as much the King's natural born subjects as the free natives of England.

God forbid that this should ever be the case here ! However, we cannot be too jealous of every thing that tends to it ; lest it should afterwards be remarked, that a *misunderstanding, or mistaken opinion of the lawyers of this age,* has introduced a vassalage much more disgraceful and pernicious, than that which the *ancient lawyers* have so happily abolished.

This

This is not altogether a chimera. A disposition, howsoever impolitic and unnatural, which prevails in one place, may prevail likewise in another.

The account of the American settlements before quoted, informs us (in vol. ii. p. 117.) of a certain unnatural disposition of the planters, “ *to do every thing by Negroes, which can possibly be done by them,*” notwithstanding that there are wholesome laws to oblige them to keep a certain proportion of white Servants: and the ingenious author observes thereupon, that, “ *if this disposition continues, in a little time (which is indeed nearly the case already), all the English in our colonies there will consist of little more than a few planters and merchants; and the rest will be a despicable, though a dangerous, because a numerous and disaffected, herd of African Slaves.*” Id. p. 118.

It would indeed be absurd to conceive, that such a disposition can very soon become general here in England, yet there is no absurdity in supposing a possibility of its being introduced by slow degrees.

A very

A very learned and respectable author (whose performance * in other respects I admire and esteem) has dropped some hints concerning Slavery, which at first sight may seem to favour the arguments of those who contend for the introduction of it here, and who endeavour to justify the modern unnatural claims of *private property* in the persons of men : but with respect to the author himself, indeed, it is plain he had no such views; he having only introduced the topic of Slavery, in order to prove a very different point, in which he certainly succeeds. Nay, he himself declares against any such intentions.—“ God
 “ forbid, (says he in p. 91.) that I should
 “ ever be an advocate for Slavery, eccle-
 “ siastic, civil or domestic, on account of
 “ any accidental advantages, which it may

* “ A Dissertation on the Numbers of mankind in ancient and modern times, &c.” 8vo, Edinburgh, 1753.

The author seems clearly to prove the point proposed, (viz. “ The superior populousness of antiquity.”) and having collected for that purpose a variety of examples, drawn from the ancient historians of several different nations, and delivered them with very judicious remarks and arguments of his own, his work, upon the whole, may be particularly useful in correcting the errors of some daring modern critics, who inconsiderately presume to cavil at the *large numbers* mentioned in the Old Testament.

“ happen

“ happen to produce; yet it must be con-
 “ fessed, that considering it only with re-
 “ spect to the phænomenon we are at pre-
 “ sent examining, it seems probable, that
 “ the ancient condition of servants contri-
 “ buted something to the greater populouf-
 “ ness of antiquity, and that the ancient
 “ Slaves were more serviceable in raising up
 “ people, than the inferior ranks of men in
 “ modern times.” But in his appendix, he
 speaks of Slavery with less caution; so that
 his expressions are too liable to be made
 use of by the advocates for bondage, in
 favour of their pernicious doctrines; for he
 has inadvertently neglected to guard against
 any such application, though the same
 would certainly be very disagreeable to a
 person of his benevolent principles.

He observes in a note, (p. 208.) that “ as
 “ the ancient Slavery contributed to the
 “ populoufness of the world, so it was
 “ accompanied with *several other advan-*
 “ *tages, &c.*” And then he gives a long
 quotation from *Busbequius*, wherein Slavery
 is represented in a much more agreeable
 dress than it deserves. But this remark,
 that “ the ancient Slavery contributed to
 “ the populoufness of the world, &c.”
 is no just argument in favour of Slavery in
 general,

general, neither have I any reason to suppose, that it was intended as such by the worthy author. It proves only, that the advantages of the ancient Slavery were increased in proportion as the same approached nearer to a *well regulated liberty*, and was more distant from absolute bondage; and therefore those advantages ought rather to be attributed to the “*equitable laws*” and customs, which *restrained* the behaviour of the ancient masters, and *diminished the bondage* of their servants, than to a general toleration of Slavery.

This may be demonstrated by a quotation from the former part of the same work, p. 90. where the author, speaking of the *antient Slaves*, informs us, that—
 “ In some states, particularly at Athens,
 “ *equitable laws* were enacted for their security; they were treated with gentleness
 “ and mildness, and allowed to acquire
 “ riches, on paying a small yearly tribute
 “ to their masters; nay, if they could
 “ scrape together as much as could purchase their liberty, their masters were
 “ obliged to set them free. Upon the
 “ whole, they seem to have been more
 “ certain of subsistence, and to have been
 “ better

“ better fed, not only than the beggars,
 “ but even many of the day labourers, and
 “ lower order of the farmers and trades-
 “ men of modern times. It would be
 “ chiefly where Slaves were treated with
 “ equity and mildness, lived in friendship
 “ with their masters, were looked on as
 “ part of the family, and interested in its
 “ welfare, that this institution could best
 “ serve to render nations populous: on the
 “ other hand, if they were cruelly used,
 “ and their spirits broken with severe bon-
 “ dage, they must have been less fit either
 “ for labour or propagation.”—That this
 latter is certainly the case in the English
 plantations, is proved (I hope) in the course
 of my work, and therefore the queries of-
 fered by the abovementioned author in his
 Appendix, (p. 207 and 208.) referring us “ to
 “ *the Maxims of our Planters,*” in favour of
 propagation, will afford us no proof that
 the modern West Indian Slavery is not de-
 structive of the human species, howsoever
 sensible the planters may be, that it is
 their interest to remedy the evil, and “ en-
 “ courage the breed of Slaves as much as
 “ they can.” For it is plain, that (though
 they call themselves Christians, yet) they

want those “ *equitable laws*,” and humane regulations of the *ancient heathens*, to lighten the bondage of their Slaves, so that propagation and increase, must be greatly hindered. This objection does not in the least affect the general point of the said author’s examination. He sufficiently proves the lenity of the ancient masters, and consequently accounts for the great increase of their Slaves.

If the propagation of Slaves in the English plantations bears no proportion thereto, the extreme severity of modern Slavery in many respects (of which I have given ample proofs) is the apparent obstacle. The same author allows, indeed, in p. 207. that “ modern Slavery seems to be on a
 “ much worse footing than the ancient.
 “ In particular, (says he) Slavery in Turkey, Algiers, Tunis, Tripoli, Morocco,
 “ and other African countries, is both very
 “ severe, and under bad regulations :” but I am inclined to think, that it cannot possibly in any place be more severe, than it is even in our own colonies. Sorry am I, that such unquestionable proofs of this, are so easily produced, even from the very laws
 of

of our plantations, which ought rather to be calculated to prevent such abuses!

But the most “*equitable law*,” cannot render the admission of Slavery either safe to this community, or justifiable in itself, because the least toleration of Slavery, or the allowing of *private property in the person of men*, will be liable in time, to introduce such a *general bondage of the common people**, as must inevitably affect the safety of regal government, by once more strengthening the power of rich and overgrown subjects, with another dangerous vassalage, which will not easily be shaken off, if it should once more take place; witness the opposition of John of Gaunt, and others of the nobility, in the reign of Richard II. † when the govern-

* Witness the oppression which has been introduced even into our own colonies, Virginia, Barbadoes, &c. whereby those that are called *free* Negroes, Mulattos, and Indians, as well as white servants and labourers, are rendered much more abject than the ancient Slaves. See notes in pages 49—75.

† “The minor King had been advised, by one part
“ of his council, to *increase* the power of the *lower people*,
“ and to lessen that of the barons; in consequence of
“ this a proclamation issued, which, amongst other
“ things, directed, “*Quod nulla acra terræ quæ in*
“ *bondagio vel servitio* tenetur, altiùs quàm ad quatuor
“ denarios haberetur; & si qua ad minùs antea tenta
“ fuisset, in posterùm non exaltaretur.” John of Gaunt.

ment thought it expedient for the maintenance of royal authority, to relieve the common people from bondage. “ Nor is
 “ the safety of a prince so firm and well
 “ established upon any other bottom, as
 “ the general *safety*, and thereby *satisfac-*
 “ *tion of the common people*, which make
 “ the bulk and strength of all great king-
 “ doms, whenever they conspire and unite
 “ in any common passion or interest. For
 “ the nobles, without them, are but like
 “ an army of officers without soldiers, and
 “ make only a vain shew or weak noise,
 “ unless raised and encreased by the voice
 “ of the people, which, for this reason, is, in
 “ a common Latin proverb, called *the*
 “ *Voice of God.*” (See Sir William Temple’s Introduction to the History of England, 3d edition, London 1708.)

“ put himself at the head of the barons faction, and
 “ procured a proclamation, repealing the former, in the
 “ year following.” (See the Hon. Mr. Justice Barrington’s Observations on the more ancient Statutes, &c. 3d edit. p. 271. for which he quotes Rymer, vol. iii. p. 124.) The same author also quotes (from Brady, vol. iii. p. 393.) a further instance of the dangerous and selfish tyranny of the barons.—“ In the fifteenth
 “ year of this King, (says he) the barons petitioned
 “ the King, *that no villeyne should send his son to school*; to
 “ which the King gave the proper answer of *s’avisera.*”

On

On the other hand, if we were for a moment to suppose, that civil Slavery is in itself profitable and convenient for the community in general, and that the laborious part of mankind ought therefore to be held in bondage; I say, if we could suppose, that this were really true, we must necessarily condemn those just encomiums which the author of the *Dissertations on the Numbers of Mankind*, has bestowed on the British government, (see p. 155 and 156 *) for having procured the reduction of vassalage in Scotland. But as no reasonable person will deny, that the said pru-

* “ The late unprovoked rebellion, raised by the
 “ rude inhabitants of these wilds, in order to dethrone
 “ the best of Kings, to overturn the best of govern-
 “ ments, and to undo the liberty of Britain, having
 “ come to so great and so unexpected an height, and
 “ having thereby awakened the attention of the govern-
 “ ment, as well as that of others, who had influence
 “ with those in the administration of affairs, has pro-
 “ duced some excellent laws, by which the liberty of
 “ the whole country is better secured, manufactures,
 “ and other kinds of labour are encouraged and pro-
 “ moted in *Scotland*, and the inhabitants of the High-
 “ lands may be brought from a state of barbarity and
 “ slavery, to a state of civility and independence. By
 “ the happy influence of these laws, a spirit for in-
 “ dustry has seized the minds of the people, and in a
 “ few years wrought no inconsiderable change on the
 “ country. Indeed it is impossible to express, how
 “ great obligations every loyal subject to his Majesty,
 “ every zealous friend to the Protestant succession,

dent and salutary measure is worthy of all the encomiums of this learned author, we cannot by any means admit the contrary maxim of *Busbequius*, which is included in the long quotation made from him by the same author in his Appendix, p. 209, viz. “*Scio*
“*servitii varia esse incommoda, sed ea com-*
“*modorum pondere sublevantur.*”

Howsoever reasonable this doctrine might appear to the minister of a German Emperor, (who moreover was reconciled, by long residence in an enslaved country, to the arbitrary government of another Emperor still more despotic than his own master) yet surely with Englishmen, it ought to be held in abhorrence. And indeed the worthy author who made the quotation, (though he thereby seems to honour it with his assent) has nevertheless furnished me, in another place, with such very sensible arguments against it, that I am persuaded no after considerations what-

“and every sincere assertor of the liberty of Britain,
“has to those, whose hearty regard to the interest of
“their country, has produced the happy prospect we
“have at present, of living for the future in peace,
“and seeing liberty penetrate into the most remote
“parts of the island.”

soever, (even though they should be expressed in the most masterly manner by the same able author himself) can possibly invalidate them. “ After all (says he) it is
 “ not easy, if it be not altogether impossible, for a man of humanity to reconcile himself perfectly to the institution
 “ of domestic Slavery. With whatever
 “ particular advantages it may be accompanied, one can scarce ever think of it
 “ without sensible horror and deep compassion. Like too many of the barbarous and inhuman customs of the world,
 “ it is highly disgraceful to human nature: nor can it ever produce *any advantages, which might not be gained by a
 “ better and more human policy.*” (P. 90, 91.)

All laws ought to be founded upon the principle of “ *doing as one would be done by:*” and indeed this principle seems to be the very basis of the English constitution; for what precaution could possibly be more effectual for that purpose, than the right which we enjoy of being *judged by our peers*, creditable persons of the vicinage; especially, as we may likewise claim the right of excepting against any particular jurymen, who might be suspected of partiality?

This law breathes the pure spirit of liberty, equity and social love; being calculated to maintain that consideration and mutual regard, which one person ought to have for another, howsoever unequal in rank or station.

But when any part of the community, under the pretence of *private property*, is deprived of this common privilege, 'tis a violation of civil liberty, which is entirely inconsistent with the social principles of a free state.

True liberty protects the labourer as well as his lord; preserves the dignity of human nature, and seldom fails to render a province rich and populous: whereas on the other hand, a toleration of Slavery is the highest breach of social virtue, and not only tends to depopulation, but too often renders the minds of both masters and Slaves utterly depraved and inhuman, by the hateful extremes of exaltation and depression.

If such a toleration should ever be generally admitted in England, (which God forbid!) we shall no longer deserve to be esteemed a *civilized* people: because, when the customs of *uncivilized* nations, and the
uncivi-

uncivilized customs which disgrace our own colonies are become so familiar, as to be permitted among us with impunity, we ourselves must insensibly degenerate to the same degree of baseness, with those from whom such bad customs were derived, and may too soon have the mortification to see the *hateful extremes of tyranny and Slavery fostered under every roof.*

Then must the happy medium of *a well regulated liberty* be necessarily compelled to find shelter in some *more civilized* country, where social virtue, and that divine precept, “*thou shalt love thy neighbour as thyself,*” are better understood.

An attempt to prove the dangerous tendency, injustice and disgrace of tolerating Slavery amongst Englishmen, would in any former age have been esteemed as superfluous and ridiculous, as if a man should undertake in a formal manner, to prove that *darkness* is not *light.*

Sorry am I, that the depravity of the present age has made a demonstration of this kind necessary !

Now that I may sum up the amount of what has been said in a single sentence, I shall beg leave to conclude in the words of the

great Sir Edward Coke, which, though spoken on a different occasion, are yet applicable to this. See Rushworth's Hist. Collect. Ann. 1628. 4 Caroli, fol. 540.

“ It would be no honour to a King or
“ kingdom, to be a King of Bondmen or
“ Slaves, the end of this would be both
“ *Dedecus* and *Damnum*, both to King and
“ kingdom, that in former times have
“ been so renowned.”

END OF THE THIRD PART.

P A R T

P A R T IV.

Some remarks on the ancient Villenage, shewing, that the obsolete laws and customs, which favoured that horrid oppression, cannot justify the admission of the modern West-India Slavery into this kingdom, nor the least claim of property, or right of service, deducible therefrom.

SINCE the foregoing three parts of this work have been communicated in MS. to my friends, I have frequently had the mortification to hear very sensible and learned persons refer to the old villenage doctrines, in their examination of the present question, concerning property in Slaves ; and from thence they have insinuated a sort of legal propriety in the pretensions

tensions of the modern West-India Slaveholders, as if they could suppose, that a state of Slavery might still exist in this kingdom according to law.

This has happened not only in private conversation, but also lately in open court, and is therefore become a matter of very serious consideration.

It is necessary, however, to be observed, that a retrospect to such obsolete customs, may very fairly be esteemed a tacit acknowledgment, that neither the present laws in force, nor the present constitution and customs of England, can afford my opponents the least justification for such opinions, or they would not be obliged to go so far back for precedents.

But if such obsolete doctrines are admitted as a rule in one case, (howsoever trivial) they certainly are liable to be admitted likewise in others of more importance, because usage * must necessarily revive them, and give them, once more, the force of laws: so that we ought to be extremely jealous of the least tendency to such a revival, as the same would be a very

* “ *Usage and Custom generally received, do obtinere vim legis,*” &c. Hale’s Hist. of Common Law, p. 65.
dangerous

dangerous enemy to the freedom of the common people in general.

The pernicious effects of reviving the doctrines of villenage, at first, perhaps, would be felt by none but the poor wretched Negroes themselves, and therefore, the subsequent evils may (like objects at a distance) seem less, at first sight, than they really are.

But let us take a nearer view of them—If the present Negroes are once permitted to be retained as Slaves in England, by enforcing the customs of villenage, their posterity, though Englishmen born, will be condemned of course, by the same laws and customs, * to the perpetual tyranny of their masters; and the mixed people or Mulattoes, produced by the unavoidable intercourse with their white neighbours, will be also subject to the like bondage with their unhappy parents.

* “The writ *de nativo habendo* lieth for the lord, who claimeth the inheritance in any villain, when his villain is run from him, &c.” *Natura Brevium*, p. 171. —So that the poor Slave, it is plain, could not avail himself of the Englishmen’s *Birth-right*, though a natural born subject; for his being a NATIVE, did rather confirm his bondage (according to the unjust laws and customs of villenage) than entitle him to freedom.

Thus

Thus it is obvious, that a foundation would be laid for a most dangerous vassalage, in which the poorer sort, even of the original English themselves, might in time be involved, through their inability to oppose the unjust claims, which some haughty land-holders might once more think fit to assume—For as it is much easier to do wrong, than to obtain right or justice, so it would be much easier for a rich landholder to assume the lord paramount, and detain a poor person born upon his estate, under the pretence of being his *native* or villain by prescription, than for such an injured person to maintain his cause, without money or friends, against his powerful oppressor.

It will therefore be expedient to examine how far such obsolete doctrines may, or may not be admitted as a rule in the present dispute.

The doctrines and customs relating to villenage are of two kinds, 1st, some enforce that horrid tyranny ; 2dly, others restrain it.

The first kind were originally introduced by an unjust *usurpation* * (“ quia, ab homi-

* “ Quia consuetudo, contra rationem introducta, potius *usurpatio* quam consuetudo appellari debet.”
2 Inst.

“ ne, et pro vicio introducta est servitus,
 “ &c.” Fortescue.) and in themselves are
 contrary to *the law of nature, reason, and*
common equity.——“ For, CRUEL of ne-
 “ cessity must that law be counted; which
 “ augmenteth Slavery and diminisheth
 “ freedom.” &c. *

But the second division of villenage doctrines and customs are of a very different nature, being in favour of liberty: they seem to have arisen chiefly from the charitable efforts of the ancient lawyers, to re-

2 Inst. ch. x. sect. clxix.—“ Fuerunt etiam in con-
 “ questu liberi homines, qui liberè tenuerunt tene-
 “ menta sua per libera servitia, vel per liberas consuetu-
 “ dines, et cum per potentiores ejecti essent; post mo-
 “ dum reversi receperunt eadem tenementa sua tenen-
 “ da in villenagio.” &c. Hen. de Bracton, de legibus
 et consuetudinibus Angliæ, ch. xi. p. 7.

And a Villain Regardent was made a Villain in Gross, (not for any fault in himself, or with his own consent but) merely by the *arbitrary act* of his lord, in granting him by his deed to another, “ *par son fait*” (says Littleton) “ a une autre donqs il est Villein en Grosse et nemy regardant.” 2 Inst. ch. ii. sect. clxxxi.

* CRUELIS etiam necessario judicabitur lex, quæ servitutem augmentat, & minuit libertatem. Nam *pro ea natura semper implorat humana.* Quia, ab homine, et pro vicio, introducta est servitus. Sed libertas a Deo hominis est indita naturæ. Quare ipsa ab homine sublata semper redire gliscit, ut facit omne, quod libertate naturali privatur. Quò IMPIUS et CRUELIS *judicandus est qui libertati non favet.* Hæc considerantia Angliæ jura in omni casu *libertati dant favorem.* (Chan. Fort. de laudibus legum, ch. xlii. p. 101.)

strain

strain and reduce villenage ; and certainly may still be effectual for the like benevolent purpose in all similar cases, because they are not repugnant to the sound principles of the common law ; whereas the doctrines under the first head, are plainly contrary to reason and nature, and therefore must necessarily be considered as null and void——*Quia in consuetudinibus non diuturnitas temporis, sed soliditas rationis est consideranda, (2 Inst. p. 141. note.)*

Even so early as the Saxon times, an attempt was made to restrain these disgraceful and uncivilized customs of our ancestors ; for the Confessor's laws ordained, “ that the lords should, so demean themselves towards their men, that they “ neither incur GUILT AGAINST GOD, “ nor OFFENCE against the KING ; or “ which is all one” (says my author) “ to “ respect them as GOD'S PEOPLE, and the “ KING'S SUBJECTS.” (Bacon's Government of England, part i. ch. xix. p. 57.)

This religious and just spirit of the Confessor's laws seemed to be retained by our ancient lawyers, even after the conquest, when the Feudal tyranny was at the greatest height.

They

They took all favourable opportunities to enfranchise * the villain——If the lord was negligent in pursuing or claiming the fugitive villein for a year, they granted to the villein a privilege afterwards of returning and defending himself in a free state, when it was “ *not* **LAWFUL** *nor* “ *SAFE* *for the lord to retake him.*——”
 non erit domino **LICITUM** *nec* **TUTUM** manum apponere †, &c.

* “ En plusurs maneres purra home recoverer fraunk-
 “ estaté, &c. Britton, 2d edit. p. 78.

——“ si come par bres de Mordaunceſtæ, et par reys
 “ se abaterent les bres issint, que il ad demurré en nos
 “ demeynes terres ou aillours en ascune de nos villes
 “ ou de nos cytes par un an et un jour saunz chalenge
 “ le pleyntyse, et demaunde jugement si il deye en tiel
 “ cas respondre et cele excepcion püsse avoir; en tiel
 “ cas soit le seignior forjuge de accion pur sa negli-
 “ gence, et ausi ou le demaundaunt purra averrer par
 “ record de nostre court, que son seignior le ad suffert
 “ ascient en jures, et en enquestes en nostre court come
 “ fraunk home, et ausi si il püsse averrer par record que
 “ il eyt recovere fraunk tenement de luy par jugement
 “ de nostre court, ou le pleyntyse ne allegga nul ex-
 “ cepcion encontre luy de naisté, &c.” Britton, p. 83.

† “ Si autem Dominus ille negligens fuerit in prose-
 “ quendo, et in clameo apponendo qualitercunque; si
 “ fugitivus revertatur post annum, non erit domino
 “ *licitum* *nec tutum* manum apponere, tamen post an-
 “ num potest fugitivus habere privilegium, et se in
 “ statu libero defendere per exceptionem, et sic solvitur
 “ dominica potestas. Et dicuntur servi esse in statu
 “ libero, donec dominus versus eos sibi perquiserit per
 “ legem terræ, nec habebit potestatem aliquam in eis
 “ vel liberis suis, terris vel aliis bonis ipsorum, donec
 “ corpus, quod principale est, distraxerit, secun-
 “ dum

When the lord lost possession of the fugitive villein through *negligence*, or even through *inability to detain him* (*per negligentiam vel impotentiam**) he might not afterwards take him ; so that force was as good a title, it seems, for the commencement of the *Villein's liberty*, as it had before been for the commencement of *the lord's property* ; and was preferred in law.

The King's courts, in those ancient times, were so manifestly disposed to favour liberty, that it seemed to be their endeavour to render the lord's suit *de nativo habendo*, as difficult † and precarious as possi-

“ dum quod inferiùs dicetur.” Hen. de Bracton de Legibus et Consuetudinibus Angliæ, cap. x. p. 7. folio edit. 1569.

* “ Cùm autem Dominus per negligentiam *vel im-*
 “ *potentiam* sui seysinam de suo fugitivo amiserit, si re-
 “ sumptis viribus contra privilegium, fugitivum redux-
 “ erit, vel cum fugitivus redierit, ipsum retinuerit,
 “ *pœnam debitam non evadit*, cùm hoc sit contra pacem.
 “ —Sed si extra villenagium, 3 perlapsum 3 vel 4
 “ dierum inventus fuerit cùm dominus negligens fuerit
 “ in prosecutione, capi non poterit nec detineri, nec
 “ magis quam liber homo, et si fuerit, inde habebit *que-*
 “ *reiam de imprisonamento.*” Ibid.

† “ If the villain say, that he is a freeman, &c. then
 “ the sheriff *ought not to seize him*, but then the lord
 “ ought to sue a *Pone* to remove the plea before the jus-
 “ tices in the Common Pleas, or before the justices in
 “ eyre.—But if the villain purchase a writ *de libertate*
 “ *probanda*, before the lord hath sued the *Pone* to re-
 “ move the plea before the justices, then that writ of
 “ *libertate probanda* is a superiendeas unto the lord, that
 “ he

ble; when, at the same, the Villein's suit *de libertate probanda* * was indulged with as many advantages † as the lawyers could well venture to give it, considering the severity of the times in which they lived.

Nay, their humanity and justice even outwent the temper of those rude times;

“ he proceed not upon the writ of *nativo habendo* till
 “ the eyre of the justices, or till the day the plea be
 “ adjourned before the justices, and that the lord *ought*
 “ *not to seize the villain* in the mean time.” See Sir
 Anthony Fitzherbert's *Natura Brevium*, first published
 in the reign of King Henry VIII. (6th edit. p. 171.)

* “ *Ceo brese de peas est appelé brese de fraunchise*
 “ *en favour de fraunchise, et est plus tost pledable, que*
 “ *nest brese de naisté, &c.*” Britton, p. 80.

† “ —It appeareth in 12 Henry III. Itin. North,
 “ that the villain sued a *libertate probanda* et obtulet se,
 “ at the fourth day against the lord, and he did not
 “ appear, but made default, for which, upon the de-
 “ fault of the lord, *the villain was enfranchised*; and he
 “ had a writ unto the sheriff, *that he do not suffer the lord*
 “ *to trouble him after.* (*Natura Brevium*, p. 173.)—And
 “ a man can join in a writ of *nativo habendo*, but two
 “ *villains, BUT IN FAVOUR OF LIBERTY, many villains*
 “ *may join in a libertate probanda.* (Id. 174.)

“ If two bring a *nativo habendo*, the nonsuit of one
 “ of them, is the nonsuit of them both; for summons
 “ and severance lieth not in that writ. But in a *liber-*
 “ *tate probanda*, it is otherwise, for there the nonsuit
 “ of the one *shall not prejudice the other.*” (Id. 175.)

“ —Et le plaintiffe dit que il est franke, &c.—And
 “ the plaintiff (being a villain) saith, that he is free,
 “ and of a free estate, and not a villain, this shall be
 “ tried in the county where the plaintiff hath conceived
 “ his action, and *not in the county where the manor is*, and
 “ this is (IN FAVOREM LIBERTATIS) in favour of
 “ liberty.” Littleton, lib. ii. cap. xi. sect. 193. p. 124b.

and, as too great forwardness in the cause of *liberty* is apt to confirm, rather than weaken the contrary extreme of *tyranny*, so it happened with respect to Villenage; for the apparent partiality of the courts in favour of the Villein, did (undesignedly on their part) occasion a confirmation by Statute law, of that unjust usurpation, which required a more moderate and gradual opposition to reduce it.

The puissance of the Barons was then too great to be effectually controuled by the equity of the *common law*; and the legislature (in which the landed interest in those early times was much too predominant) seemed to be offended with the manifest inclination of the professors of the common law (the judges and lawyers) to favour liberty, and impede the suits of the lord.—Justice, therefore, must give place to the private interest of such powerful land-holders, and the lord's prerogative must be insured to him by act of parliament.

Two acts * were accordingly passed in two different reigns, which expressly restrained the use of writs *de libertate probanda*.

Yet these obstacles served only to render the humanity and perseverance of our an-

* 25 Edward III. c. xviii. and 9 Richard II. c. ii.
cient

cient patriotic lawyers more conspicuous, and their success more meritorious; for the interpretation of the law still continued *in favour of liberty*, so that the maxim of chancellor Fortescue, in the 47th chapter of his book, *de Laudibus Legum Angliæ*, seems to have been grounded on the practice of his predecessors.—“ *humana natura, in libertatis causa, favorem semper magis quam in causis aliis deprecetur.*” And in the 42d chapter, p. 101, he says, “ *Angliæ Jura in omni casu libertati dant favorem.*”

Nevertheless, the bondage of Villenage remained even in his time; and though he condemned *as cruel*, those laws, which augmented Slavery, yet, where the free consent of the parties might be implied,—his objections were removed.—Upon this footing he excused the law which made the free-woman bond, when she submitted herself in marriage to a bondman, because, said he, “ of her own free-will * she hath made herself a bond-woman, not forced thereto by the law; much like to such

* —“ *Proprio arbitrio se fecit ancillam, sed potius servam, nullatenus a lege coacta, qualiter et faciunt qui se servos reddunt in curiis regum, vel in servitutem se vendunt, nullatenus ad hoc compulsi.*” Fortescue, cap. 42. p. 102.

“ as in King’s courts become bond-men,
 “ or sell themselves into bondage without
 “ any compulsion * at all.

But even this doctrine, which Sir John Fortescue was willing to excuse, was thought too severe † by his successors in the law; who, instead of neglecting the old customs which favoured the Villein, ventured even to add others to them for the same beneficent purpose.

Every negligence or delay of the lord in prosecuting his claim, was interpreted to the advantage of the Villein, in the King’s courts, which were always open to his complaints; and if the lord attempted to put an end to the Villein’s suit, by forcibly esloining his body, the plaintiff (or the sheriff, in his behalf) was allowed a “ *Capias in*
 “ *Wiltbernam*, ‡ to take the defendant’s

* This is similar to the practice allowed by the 13th section of the Habeas Corpus act.

† ———“ And that IN FAVOUR OF LIBERTY; for a
 “ free woman shall not be a villain for taking of a
 “ villain to be her husband.” Fitzherbert’s *Natura Bre-*
man, p. 174.

‡ The use of this writ, (as explained by the late learned Judge Fortescue Aland) is “ *to take his body*” (the body of the plagiary) “ *by way of reprisal*.” —
 This is certainly very reasonable and just; though, I am persuaded, such doctrine will not be relished by our modern West India Slaveholders, who, in defiance of our laws, do frequently presume to kidnap and forcibly transport their quondam Slaves. — However, as they
 ought

“ body, and to keep the same, quousque,
 “ &c. whether he be *a peer of this realm*, or
 “ other person.” (See judge Fitzherbert’s *Natura Brevium*, p. 151. vi. edit.)—Again, a
 Villein was enfranchised “ *by the custom of*
 “ *London*, if he dwelt for a year and a day
 within the city.” (see lord chief baron
 Comyns his digest of the laws of England.)

Another remarkable observation is like-
 wise made by the same author in favour
 of the Villein, for, says he, “ in an action
 “ for the trial of his liberty, as *libertate*
 “ *probanda, homine replegiando*, &c. IT IS
 “ NO PLEA that the plaintiff is his Vil-
 “ lein.”

At length, by the repeated discourage-
 ments which Villenage met with in the
 Courts of law, and perhaps in some mea-
 sure likewise, by the more civilized and
 christian disposition of the lords * them-

ought not to be ignorant of this doctrine, it is certainly
 better, that they should be taught by friendly infor-
 mation, than rude experience.

* —“ But the servant’s merit, and the lord’s be-
 “ nignity concurring with some conscience of religion,
 “ as the light grew more clear, abated the rigour of the
 “ tenure into that which we now call copyhold.” (Ba-
 con’s *Government of England*, part I. chap. xxxi. p.
 75.)

—“ Further, the same peaceable manners made the
 “ minds of men be shock’d with the bondage of their
 “ fellow-creatures; villains were enfranchised, the fla-

selves, this detestable practice of holding men in an involuntary state of bondage became entirely out of use in this kingdom, insomuch, that a single *Villein*, according to the old acceptation of the word, (I wish I might say so of the present) has not been known for many ages; * unless the copy-holders may be so called: but their condition is at present so much more honourable than Villenage, that it cannot justly be compared with it.

“ The tenant” (says Mr. Sheppard, speaking of copy-holders) ” was anciently
 “ a bondman, and his tenure a base tenure:
 “ *but time hath changed both*, and now, he
 “ and his estate both are so far free, that
 “ if he pay his rents, and do his services

“ with tenure of villenage, which had taken its name
 “ from the objects of it, was deemed to be too severe,
 “ and by degrees was converted into soccage, a tenure
 “ better accommodated to the more civilized dispositions of mankind.—Thus the tenure by knight's
 “ service, and the tenure by villenage, the one sinking,
 “ and the other rising in dignity, falling both gradually into the balance of soccage tenure, this last extended itself daily in Great Britain over land property.” (Dalrymple's History of Feudal Property, p. 26.)

“ For Sir Thomas Smith (Commonwealth, b. iii. c. x.) testifies, that in all his time, (and he was secretary to Edward VI.) he never knew any villein in gro'ss throughout the realm, &c.” (Blackstone's Comment. b. ii. p. 96. 3d edit.)

according

“ according to the custom of the place,
 “ the lord cannot hurt him or his estate.”

(Court-keeper's Guide, p. 96.)

From what has been said I hope it will plainly appear, that Villenage no longer subsists in this kingdom; that the doctrines (under the first head) which formerly enforced it, are now entirely obsolete; and that the doctrines and customs under the second head, were the means whereby they became so. “ *Quia consuetudo ex CERTA*
 “ *CAUSA RATIONABILI usitata* privat com-
 “ *munem legem.*” (Littleton, lib. ii. ch. x. sect. clxix.)

The reasonable cause for the use of the latter, is frequently expressed in the foregoing quotations of them, “ ET CEO EST IN
 “ *FAVOREM LIBERTATIS.*” (Littleton, p. 124.) or to that effect.—So *that* THE FAVOURING OF LIBERTY seemed to be an established maxim with the ancient lawyers, to whom indeed we are principally indebted for this signal improvement of our constitution.

What then can excuse the very different behaviour of our modern lawyers * in at-

* Lest this censure should seem too general, it may, perhaps, be necessary to observe, that there are still *some* gentlemen of the law, who (to the author's own
 KNOW-

tempting to revive the oppressive doctrines of Villenage, which their honest predecessors always laboured to abolish? Prescription and custom cannot now be pleaded, because two incidents are wanting, which, in Lilly's abridgment, are said to be *inseparable from custom*, viz. 1st, "*A reasonable commencement*," (for "all customs and prescriptions that be against reason, are void." 2 Inst. p. 140.) 2dly, "*Continuance without interruption*;" which is also manifestly wanting, because no such Slavish customs have subsisted within the memory of man; or I may add, for many generations of men; so that *prescription*

knowledge) are as thoroughly sensible of the injustice and impropriety of tolerating Slavery in this kingdom, as their predecessors. There must undoubtedly be a great many others likewise of the same opinion, though unknown to the author. Nevertheless those gentlemen of the law, whose contrary doctrines I am unfortunately obliged to oppose, are numerous, eminent and learned; and some of them (with respect to the proceedings of a late trial) have so far prevailed, as to give me very just reason to dread a confirmation by judicial authority of those doctrines against which I contend. Therefore it is incumbent on every lawyer who is a well-wisher to the civil liberties of mankind, to take the first opportunity of disclaiming, and publicly protesting against all doctrines which may tend to the introduction of the West India Slavery, *or the least right or property* in the involuntary service of our fellow-subjects, arising from the same, otherwise the odium must necessarily fall upon the whole body in general.

and

and custom, which originally were the chief pillars and support of all claims under Villenage, are now *absolutely against it* ; for, “ as USAGE is a good interpreter of laws, “ so NON-USAGE where there is no example, “ is a great intendment that the law will not “ bear it,” &c. (2d. Inst. ch. iv. p. 81. b. notes.)

Sir Matthew Hale, (lord chief justice) in his Analysis of the law, observes, on the title of Lord and Villein, that “ it is at this “ day of little use, and in effect is altogether “ antiquated.” * (sect. xxi. p. 50.)—But with whatsoever propriety, customs, and also some particular doctrines of the common law, may be said to become obsolete and antiquated, yet the same could not rightly be said of the *statute law*, (I speak, with reference to the two Acts of Parliament † which formerly enforced the lord’s claim on his Villein) unless some very material alteration concerning this point, had since been made therein *by the same authority* ; ‡ because, “ an Act of Parliament by *non*

* See the same author, p. 4. “ Villeins,” (says he) “ now antiquated.”

† 25 Edward III. c. xviii. and 9 Richard II. c. ii.

‡ (By the same authority.) “ Unumquodque dissolvitur “ *per eum modo quo colligatur.*” Noy’s Maxims, p. 4.

“ *user* can(not) be antiquated or lose its
 “ force.” (see 2 Inst. p. 81 b. note.)

Nevertheless, the advocates for Slavery cannot avail themselves of these statutes; because *Villénage* (being originally a tenure of land,) “ was taken away and discharged” by authority of parliament in the 12 year of Charles II. *—So that the said statutes are rendered useless by this subsequent act. —*Villénage*, indeed, is not nominally abolished by this act; yet, as *all tenures* were thereby reduced “ *to free and common soc-*
 “ *cage,*” † it is necessarily implied, that this base and most disgraceful branch of

* Cap. xxiv. “ An act for taking away the court of
 “ wards and liveries, and tenures in capite, and by
 “ knight’s service and purveyance, and for settling a
 “ revenue upon his Majesty in lieu thereof.”

“ Whereas it hath been found by *former experience*,
 “ that the courts of wards and liveries, and tenures by
 “ knight’s service, either of the King or others, or by
 “ knight’s service in capite, or soccage in capite of the
 “ King, AND THE CONSEQUENTS UPON THE SAME,
 “ *have been much more burthensome, grievous and prejudi-*
 “ *cial to the kingdom, than they have been beneficial to the*
 “ *King, &c.*”

† “ And all tenures of any honors, manors, lands,
 “ tenements or hereditaments, or any estate of inheri-
 “ tance at the common law, held either of the King,
 “ *or of any other person or persons, bodies politic or corpo-*
 “ *rate,* are hereby enacted to be turned into FREE AND
 “ COMMON SOCCAGE, *to all intents and purposes, &c.*
 “ *any law, statute, custom, or usage, to the contrary*
 “ *hereof in anywise notwithstanding.*” Id.

the

the old feudal tenures, was lopped off at the same time with the rest. *

Nevertheless, when I have urged the force of this act for the entire abolition of villenage, I have been answered, that formerly there were two different degrees of villenage, and that the lowest of these could not be dissolved by the said act, because it was not *a tenure of lands*, and therefore could not be said, according to the terms of the act, to be reduced to "*free and common soccage*;" and that it was so far from the *condition of a tenure*, that all those unhappy people called *villains in gross*, were themselves considered in law merely as the *personal + property* of their lords.

But let it be remembered nevertheless, (what I have before hinted) that such barbarous customs had no other foundation,

* " And that all tenures by knight's service, &c. and
" the FRUITS AND CONSEQUENTS thereof, happened, or
" which shall or may hereafter happen or arise there-
" upon or thereby, be taken away and discharged; any
" law, statute, &c. notwithstanding." Id.

† " In grosse: is that which belongs to the person of
" the lord, and belongeth not to any manor, lands, &c."
2 Inst. ch. xi. sect. clxxxii. p. 120 b. note.

" Et come ascun serra nœe serfe il serra *purement le*
" *châtel* son seigniour a doner et a vendre a sa volounté,
" &c." Britton, p. 78 b.

than

than the violent and unchristian usurpation of the uncivilized barons in an age of darkness; and that religion and morality, reason and the law of nature (*the very foundation of our ENGLISH COMMON LAW*) were obliged to give place to the imaginary (tho' mistaken) interest, and uncontrollable power of these over-grown landholders.

“ These tenures and obligations arose
 “ most of them at a time, *when the interest of the superior in the fief was extremely*
 “ *strong*, and were therefore most of them
 “ in their origin *extremely severe.*” (See Dalrymple's History of Feudal Property, p. 74.)

So that although this lowest degree of bondage was not really a tenure, yet it certainly may be esteemed an *appendage*, or rather *an incident* “ FRUIT OR CONSEQUENT” of the *military tenures*, when *the feudal severity was at the height*; and therefore, as the said tenures were gradually reduced, so in proportion was the bondage lessened, until
 “ whatever remained in either country
 “ (England or Scotland) of military tenures, WITH THE VARIOUS INCIDENTS,
 “ FRUITS, AND DEPENDENCES *attending*
 “ *them, was laid for ever to rest.*” (Dalrymple, p. 74, 75.) And the same judicious
 writer

writer is of opinion (see p. 75.) that “ this
 “ was done in England during the reign
 “ of Charles II.” For this he refers to
 the 12 Car. II. cap. 24. Nevertheless a
 more restrained construction has been put
 upon this act by the honourable Mr. Justice
 Barrington, in page 272, of his Observa-
 tions on the ancient statutes (3d edition,
 London 1769, p. 272.); for I suppose he
 speaks of this act when he informs us, that
 “ *the statute of Charles II. (or rather of*
 “ *Cromwell,)*” as he is pleased to say,
 “ *abolishes THOSE TENURES ONLY, which*
 “ *were attended with wardships, &c.*” Pro-
 bably he was led to this opinion by the 7th
 section, which provides, “ that this act, or
 “ any thing therein contained, shall not
 “ take away, or be construed to take away
 “ tenures in frank almoigne, &c.—nor to
 “ alter or change any tenure by *copy of*
 “ *court roll, or any services incident there-*
 “ *unto,* nor to take away the honorary
 “ services of grand *serjeanty*, OTHER THAN
 “ OF WARDSHIP, &c.” Nevertheless *ward-*
ship, and the other articles expressly men-
 tioned after it, are not the only prerogatives
 which were taken away by this act; for if
 it were really so, all the former part of the
 act would be absolutely useless and unin-
 telligible.

telligible. The principal design of the legislature at that time, seems to have been the reduction of *all tenures whatsoever*, (whether “attended with wardships,” &c. or held by knight’s service, &c. or otherwise) “*to free and common soccage:*” and as this point is so very clearly expressed in the body of the act, it certainly never could be intended to marr and annul that effect by *any after clause* in the same act.

It is therefore necessary to construe the meaning of the 5th, 6th, and 7th sections, agreeable to the apparent design of what goes before: and if this be done, the *general* sense before quoted from Mr. Dalrymple, will be sufficiently justified.—The design of the act is *expressly*, that “all tenures by knights service of the King, or of any other person, and by knights service in capite, and by soccage in capite of the King, AND THE FRUITS and CONSEQUENTS THEREOF, happened, or which shall or may hereafter happen or arise thereupon, or thereby, *be taken away and discharged*; any law, statute, custom, or usage to the contrary hereof in any wise notwithstanding; and ALL TENURES OF ANY *honors, manors, lands, tenements or hereditaments, or ANY estate* “ of

“ *of inheritance at the common law, held either*
 “ *of the King, or of any other person or per-*
 “ *sons,*” &c. (this must certainly include ALL
 TENURES *whatsoever*, whether “ *attended*
 “ *with wardships,*” &c. or otherwise) “ *are*
 “ hereby enacted to be TURNED INTO
 “ FREE AND COMMON SOCCAGE, *to all in-*
 “ *tents and purposes,*” &c. “ *any law, sta-*
 “ *tute, custom, or usage, to the contrary*
 “ *hereof in any wise notwithstanding.*”

Now, as Villenage was certainly one of
 “ *the fruits or CONSEQUENTS*” of the
 arbitrary military tenures, it must in-
 evitably have been annihilated by this re-
 duction of the said tenures, had it not been
extinct in itself, for want of succession, long
 before the making of the said law ; not a
 single Villein (properly so called) having
 been known for several ages, as is before
 remarked. The *Extinction* of Villenage,
 therefore, (though not *effected* by this act,
 yet) was certainly *confirmed* by the said act,
 and the revival of any such old arbitrary
 claims is rendered absolutely illegal thereby.

Nevertheless, the honourable Mr. justice
 Barrington seems to be of a different opi-
 nion, in page 272 ; for though he there
 speaks of Villenage as being “ *entirely dropt*
 “ *in this country,*”—yet he adds,—“ *with-*

“ *out its being abolished by any statute.*” And he further explains his meaning by the note before quoted, viz. that “ *the statute* “ *of Charles II (or rather of Cromwell) abo-* “ *lishes THOSE TENURES ONLY*” (says he) “ *which were attended with wardships,*” &c. But the words before quoted from the act, prove beyond dispute, that ALL TENURES of ANY honors, manors, lands, &c. are thereby reduced to “ FREE AND “ COMMON SOCCAGE;” and consequently the rights which are preserved to the lords or owners of manors, &c. by the 5th, 6th, and 7th sections, can only be such as are not inconsistent with “ *free and common* “ *soccage;*” for the 5th section expressly says, that the act “ shall not be construed to take “ away any rents certain, herriots or suits “ of court, belonging or incident to any for- “ mer tenure, now taken away or allowed “ by virtue of this act, ” or “ OTHER SER- “ VICES INCIDENT OR BELONGING TO “ TENURE IN COMMON SOCCAGE, &c.”

The unnatural and unjust prerogative of the lords of manors over their natives or Villeins, (“ *for the nativus,*” says Mr. justice Barrington, “ became a Villeyn, by “ being born in servitude, *within a parti-* “ *cular*

cular manor or district,”) * must necessarily be considered therefore, as “ taken away and discharged,” because the same was certainly one of the *Fruits and consequences* of the former military tenures; and, as such, is inconsistent with “ *tenure in common soccage*,” so that if we were even to suppose, that a succession of natives or Villains, are still remaining on any particular honor, manor, land, &c. yet the present lord or possessor thereof, would not be able to maintain or claim the least authority or power of retaining such persons as his Villeins, or natives of his manor, for the reasons before given; because such a claim would be absolutely illegal, according to the true meaning and unavoidable construction of this act. The servile tenure of Villenage, however, was universally in England, improved into the present honourable tenure of copyhold, before the making of this act, and it was therefore just, that all *reasonable* claims, which at that time were *customarily* due to the lords of manors, should be reserved: and this seems to be the true intention and purpose of the 5th, 6th, and 7th sections. By the

* Observation on the more Ancient Statutes, p. 275.

last of these, indeed, it is provided, that this act shall not “ alter or change any tenure by copy of court-roll, or *any services incident thereunto, &c.*”

Yet it cannot be supposed, that the legislature intended hereby to reserve “ any services” inconsistent with “ *tenure in common soccage* ;” because this would inevitably destroy the meaning, and frustrate the apparent design of the whole act. We may, therefore, very justly conclude with the learned and judicious Mr. Blackstone, that “ *Villenage was virtually abolished*” * by this act, though “ *copyholds were reserved.*”

Villenage, therefore, being certainly *extinct* in law, as well as *in itself*, for want of *succession*, (which is before remarked) it would be very impolitic, as well as unjust, to permit a foreign † institution, like the

* “ And these encroachments grew to be so universal, that when *tenure in villenage was virtually abolished* (though *copyholds were reserved*) by the statute of Charles II. there was hardly a pure villein left in the nation.” Commentaries on the Laws of England, b. ii. p. 96. edit. 3.

† —“ The common law is now so much improved by the active wisdom of our legislatures, through a long succession of ages ; is so peculiarly adapted to the temper of the nation ; and so well fortified by its utility and good sense ; that *no foreign system* could
 4 “ ever

West Indian Slavery, to revive or assume, like a lawful heir, the ancient rights of Villenage, when it is apparent, that such a claimant has no just title to succeed.

The West Indian Slavery sprung from a very different source, and therefore hereditary right by descent is excluded, especially as this modern bondage did not even commence, *until the former had been many years extinct*; for it is a maxim in law, that “*customs cannot extend to things newly created.*” Wood’s Inst. p. 11.

The only excuse which can be alledged for tolerating this iniquitous and disgraceful bondage, *even in the West Indies*, is a presumed necessity, arising (as interested persons tell us) from the excessive heat of the climates where our colonies are situated; but as the said supposed necessity is *merely local*, so ought to be the toleration of it *likewise*, if we might allow, that any necessity * whatsoever can justify it. (See notes from p. 49 to 73, in the 3d part.)

“ever expect to invade it with success. Should the attempt be made to import any strange laws, contrary to the fundamental maxims of our own, it would always be repulsed with that indignation it so justly deserves.” Dr. Bever’s Discourse on Jurisprudence and the Civil Law, p. 15, 16.

* “Whatever necessity may be pleaded for it, it is greatly to be lamented, that there is any such thing

The plantation laws and customs therefore, with respect to their source, temper and necessity, must certainly be esteemed as different *and distant* from our own, as the *climate itself*; which, in truth, is *so many degrees*, that the least right or title *to the inheritance of the old English Villenage cannot possibly be admitted*.

Nay, this stranger is so far from having any relationship, that it has not even the least *similarity* to Villenage, except what consists in cruel oppression, and apparent immorality; and these, I hope, are no inducements for reviving the former tyranny: on the contrary, it will certainly *be a stain of everlasting infamy on the present lawyers, (as well as on the age in which they live,)* if they do not demonstrate *the unlawfulness* of admitting the least claim of property in the persons of men by THIS VERY SIMILARITY. For as the former tyranny was *un-*

“ as Slavery any where. As Moses said, *Would God,*
 “ that *all the Lord's people were prophets!* so I would
 “ say, *Would God,* that all mankind were free, that
 “ those who are bond were free, and that those who
 “ are free may so use their liberty, as not to abuse it
 “ unto licentiousness!” Sermon preached before the
 Incorporated Society for the propagation of the gospel,
 &c. by the learned Dr. Newton, lord bishop of Bristol,
 1; 69.

reason-

reasonable, unjust, and CONTRA NATURAM * : so are the modern notions of Slavery, and therefore *absolutely unlawful*, as being repugnant to the principles of the common law †.

The event has shewn the truth of this remark ; for the common law, and the ancient professors of it (as I have before observed) have been chiefly instrumental in abolishing Villenage ‡.—Therefore, another *such state of servitude* cannot justly take its place, *let the similarity be what it will*, because the inconvenience and injustice

* *Est quidem servitus libertati contrarium; item constitutio quædam de jure gentium, quâ quis domino alieno CONTRA NATURAM subjicitur, &c.* Fleta, 2d. edit. p. 1.—The quotation here mentioned as taken from Fleta, is really a maxim of the Civil Law in these words: “ *Servitus est constitutio juris gentium, quâ quis dominio alieno CONTRA NATURAM subjicitur.*” Instit. lib. i. tit. iii. leg. 2.

† La quelle condition (la condition des villeyens) *fuit chaungé hors de fraunchise jefques en servage* en antiquité par constitution de gentz NEMY PAR LE LEY DE NATURE, &c. Britton, 2d edit. p. 77.

‡ Mr. Dalrymple, in his History of Feudal Property, fol. 74. speaking of the Military System, (“once so universal and so severe”) that it is now limited in the nature of its tenures, and more so in the perquisites of them, observes thereupon, that “the people BY THEIR
“ CUSTOMS, and by changing many of the military
“ into civil feuds, effected the one; the judges BY
“ THEIR INTERPRETATION, and bending that interpretation to the genius of the times, effected the
“ other.”

of the former was the occasion of its annihilation, according to that excellent maxim in *common law*, “MALUS USUS ABOLENDUS EST.” Littleton, 2 Inst. ch. ii. p. 141. on which the great Sir Edward Cook remarks, that “*every use is evil, that is*” AGAINST REASON. Quia in consuetudinibus non diuturnitas temporis, sed soliditas rationis est consideranda.”

Nay, even a claim to the *mere service* of a man, without his previous consent, or voluntary contract, is equally UNREASONABLE and UNJUST, (though not so shocking to humanity) as the absurd claim of an *absolute property* in the person of a man.

Yet some learned men who freely and confidently condemn all pretensions to the latter, do, nevertheless, seem inclined to admit the former. Even that excellent commentator, Mr. Blackstone, though he acknowledges, b. i. c. xiv. p. 424. that “*the law*” “*will protect him*” (that is a Slave or Negro) “*in the enjoyment of his person, and his property. Yet,*” (says he) “*with regard to any*” “*right which the master may have acquired*” “*to the perpetual service of John or Thomas,*” “*this will remain exactly in the same state as*” “*before: for this is no more than the same*” “*state of subjection for life, which every ap-*”
“prentice

“ *prentice submits to for the space of seven*
 “ *years, or sometimes for a longer term.—*
 “ Hence too it follows, that the infamous
 “ and unchristian practice of withholding
 “ baptism from Negro servants, lest they
 “ should thereby gain their liberty, is to-
 “ tally without foundation, as well as
 “ without excuse. The law of England
 “ acts upon general and extensive princi-
 “ ples : it gives liberty, rightly under-
 “ stood, that is, protection, to a Jew, a
 “ Turk, or a Heathen, as well as to those
 “ who profess the true religion of Christ ;
 “ and it will not dissolve a civil obligation
 “ between master and servant, on account
 “ of the alteration of faith in either of the
 “ parties : but the Slave is entitled to the
 “ same protection in England before, as
 “ after, baptism ; and *whatever service the*
 “ *Heathen Negro owed to his American mas-*
 “ *ter, the same is he BOUND TO RENDER,*
 “ *when brought to England and made a*
 “ *Christian.*”—But by what law is the Ne-
 gro “ BOUND TO RENDER” such service ?—
 This has never been declared, neither can
 such a law be produced, except in the case
 of a *written contract*.

Nevertheless, in justice to Mr. Black-
 stone, it must be remarked, that he hath
 not

not peremptorily said, that the master *batb* acquired any right to the perpetual service of John or Thomas, or that the Heathen Negro *really doth owe* such service to his American master; he only speaks “ *with* “ *regard to any right which the master MAY* “ *have acquired,*”—and of—“ *WHAT-* “ *EVER SERVICE the Heathen Negro OWED,*” &c. as much as to say,—IF *he did owe such service*, the obligation is not dissolved by his coming to England, and turning Christian. And this I readily allow; for if a Negro *really owed service* to his master, the same must certainly be *due*. Therefore, it is necessary to be observed, that when I oppose the claims of *perpetual service*, which, to the disgrace of this kingdom, have too frequently been made of late, I do not contradict any assertion of this learned gentleman; because I speak only of that service which is NOT *due or owing*: as for instance, when masters claim a *right* to the *perpetual service* of a man, without being able to produce an authentic written *contract*; for, without a voluntary *contract*, there *cannot be* ANY RIGHT.

Therefore, “ *with regard to ANY RIGHT*” (I mean any other right than that by *contract*)

tract) “ *which the master may have ACQUI-*
 “ *RED to the perpetual service of John or*
 “ *Thomas,*” let us trace it back to its
 source, and examine the original means of
 such ACQUISITION, that we may judge
 how far it ought to be admitted.

“ It is evident, that the Europeans, in
 “ sending ships yearly to the coast of Afri-
 “ ca, to buy slaves, without enquiring how
 “ those they purchase them of came by
 “ them, do encourage those thieves” (the
 Negro tyrants and plagiaries) “ and tempt
 “ them to make a practice and trade of
 “ stealing their own countrymen; for this
 “ is the same thing in effect, as if they
 “ were to tell them in so many words, “ *do*
 “ *you get men ready for us how you can,*
 “ *and we will take them off your hands.*”
 “ Besides, those men merchants not only
 “ encourage others in this cruel flagitious
 “ practice of man-stealing, but are really
 “ guilty of it themselves.—You will ob-
 “ serve, that what is done by their com-
 “ mand, and according to their order, I
 “ consider as done by themselves *. As
 “ those poor miserable creatures were stolen,

* “ *Qui per alium facit, per seipsum facere videtur.*”
 Noy’s Maxims, p. 17.

“ those

“ those who did steal them, *could not con-*
 “ *vey ANY RIGHT in them to others*, though
 “ these others should give ever so much in
 “ purchase of them, any more than if they
 “ had them for nothing.—For those pur-
 “ chasers then to deprive them of their li-
 “ berty, and, by force, keep them in
 “ possession, in whom they have *no right*,
 “ (supposing one man could be the pro-
 “ perty of another) and who never injured
 “ them in the least, nor forfeited their
 “ liberty; to keep them in bonds, and
 “ carry them away captives, is, properly
 “ speaking, man-stealing. And what ag-
 “ gravates this crime in the European man
 “ merchants, and renders it much more
 “ heinous in them, than in the Africans,
 “ is, that the former enjoy the light of the
 “ gospel, and profess themselves to be
 “ Christians.” (See a short account of that
 part of Africa, inhabited by the Negroes,
 &c. 3d edit. p. 42.)

But to return to the author whose opi-
 nion I was just before considering. Though
 I have attempted to prevent any unjust
 conclusion, which Slaveholders and inter-
 ested persons might be liable to draw from
 some particular passages of his book, yet
 I must acknowledge, that the learned au-
 thor

thor has himself done this already, and much more effectually. For in pages 423 and 424, he has delivered a sovereign antidote against the absurdity of supposing
 “ ANY RIGHT *which the master may have*
 “ *acquired to the perpetual service of*” A MAN,
 except it is “ *only meant of contracts to serve*
 “ *or work for another.*”

It may be said, indeed, that he is speaking only of “ *pure and proper slavery,*” such (as he explains himself) “ *whereby an absolute and unlimited power * is given to the*
 “ *master over the life and fortune of the Slave.*” But his excellent arguments, which confute all pretensions to such an absolute power, effectually invalidate at the same time, *the least claim of servitude derived therefrom.* And I am convinced that the *literal force* of these arguments (whatsoever the private sentiments of the author may be with respect to a limited servitude) cannot be set aside by any future considerations.

“ The three origins of the right of Slavery, assigned by Justinian, are all of them built upon false foundations. As

* “ And indeed (says he) it is repugnant to reason
 “ and the principles of natural law, that such a state
 “ should subsist any where.” Id. p. 423.

“ first,

“ first, Slavery is held to arise “ *jure gen-*
 “ *tium*,” from a state of captivity in war ;
 “ whence Slaves are called *mancipia, quasi*
 “ *manu capti*. The conqueror, say the
 “ civilians, had a right to the life of his
 “ captive ; 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 only a right to kill him, in particular
 “ cases ; in cases of absolute necessity, for
 “ self-defence ; and it is plain this absolute
 “ necessity did not subsist, since the victor
 “ did not actually kill him, but made him
 “ prisoner. War is itself 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, torture, abuse, plunder, or
 “ even to enslave an enemy, when the war
 “ is over. Since therefore the right of
 “ *making* Slaves by captivity, depends on
 “ a supposed right of slaughter, that foun-
 “ dation failing, the consequence drawn
 “ from it must fail likewise. But secondly,
 “ it

“ it is said, that Slavery may begin “ *jure*
 “ *civili* ;” when one man sells himself to
 “ another. This, if only meant of con-
 “ tracts 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 im-
 “ possible. 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 ab-
 “ solute Slavery) are held to be in the
 “ master’s disposal?—His property also,
 “ the very price he seems to receive, de-
 “ volves *ipso facto* to his master, the in-
 “ stant he becomes his Slave. In this case
 “ therefore the buyer gives nothing, and
 “ the seller receives nothing : of what va-
 “ lidity 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
 “ “ *fiunt*,” or are acquired, they may also be
 “ hereditary : “ *servi nascuntur* ;” the chil-
 “ dren of acquired Slaves are, *jure naturæ*,
 “ by a negative kind of birth-right, Slaves
 “ also. But, this being built on the two for-
 “ mer

“ mer 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.
 “ *Upon these principles* THE LAW OF ENG-
 “ LAND *abhors, and will not endure the*
 “ *existence of Slavery within this nation:*
 “ so that when an attempt was made to
 “ introduce it, by statute 1 Edward VI.
 “ c. 3. which ordained, that all idle vaga-
 “ bonds should be made Slaves*, and fed
 “ upon bread, water, or small drink, and
 “ refuse meat; should wear a ring of iron
 “ round their necks, arms, or legs; and
 “ should be compelled by beating, chain-
 “ ing, or otherwise, to perform the work
 “ assigned them, were it never so vile;
 “ *the spirit of the nation could not brook this*

* The honourable Mr. justice Barrington, in p. 282, refers to this act to prove, that “ the term of *Slave* is “ certainly not unknown in our law;” as if he intended thereby to insinuate something in favour of his own doctrine, that “ a Slave may continue in a state of servitude, *though he breathes the air of this land of liberty,*” &c. And he certainly would have been right, had not the said act been so speedily repealed. But as it was thus repealed, the recital of it is so far from proving any thing in favour of Slavery, that it immediately reminds us of Mr. Blackstone’s just remark to the contrary, that “ *the spirit of the nation could not brook this condition,*” &c.

“ con-

“ *condition*, even in the most abandoned
 “ rogues ; and therefore this statute was
 “ repealed in two years afterwards *.” If
 these sensible and just arguments be duly
 weighed and considered, (whatsoever the
 worthy author’s opinion may be in other
 respects, yet) there will be no room left for
 the least reservation or plea of “ ANY RIGHT
 “ which the master may have ACQUIR-
 “ ED to the perpetual service of John or
 “ Thomas.”

For whether the planter or merchant
 “ *may have acquired*” this supposed *right*
 by purchase, inheritance, nativity of chil-
 dren from parents † in bondage, or any
other means whatsoever, yet, as the original
 commencement of the bondage was mani-
 festly impious and unjust, so must the *least*
claim of servitude upon the same foundation ‡,
 and in this sense, only, can such a right be
 said to “ *remain exactly in the same state as*
 “ *before ;*” because “ *quod ab initio non va-*

* Commentaries on the Laws of England, by W. Blackstone, Esq; 3d edit. vol. i. b. i. ch. xiv. p. 423, 424.

† “ 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.”

‡ “ *Debile fundamentum fallit opus.*” Noy’s Maxims, p. 5.

“ *let, in tractu temporis non convalescit.*”
(Noy's Maxims, p. 4.)

So that the *derived* * *power or right* of the last master who detains the Slave, is certainly as unjust (with respect to the Slave himself) as the unmerciful usurpation of the first possessor.

The right which some masters have ACQUIRED to the service likewise of *Indian Slaves and their posterity*, (if any still remain in the islands) is not less unjust than the bondage of the Negroes. See an account of the European settlements in America, 2d Vol. p. 86.—The author is relating the number of inhabitants at Barbadoes, in 1650, and the proportion of *Blacks and Indian Slaves*, “ the former of which
“ Slaves” (says he) “ they bought; the
“ latter, they acquired by means not at
“ all to their honour; for they seized upon
“ those unhappy men without any pretence,
“ in the neighbouring islands, and carried
“ them into Slavery. A practice which has
“ rendered the Caribbee Indians irrecon-
“ cileable to us ever since.”

A considerable number of Carolina Indians were also formerly reduced to the

* “ *Derivativa potestas non potest esse major primitiva.*”
Id. p. 3.

English bondage in the West Indies,—and the *acquired right* of the persons who were the first proprietors of them, was equally unjust and dishonourable.

The occasion and commencement of this wretched captivity was as follows :

“ *The Serwees*, a particular tribe of Indians in Carolina, seeing several ships coming in, to bring the English supplies from Old England, one chief part of their cargo being for trade with the Indians, some of the craftiest of them had observed, that the ships came always in at one place, which made them very confident, that way was the exact road to England ; and seeing so many ships come from thence, they believed it could not be far thither, esteeming the English that were among them, no better than cheats, and thought, if they could carry the skins and furs they got themselves to England, which was inhabited by a better sort of people than those sent amongst them, that then they should purchase twenty times the value for every pelt they sold abroad, in consideration of what rates they sold for at home,

“ The intended barter was exceeding
 “ well approved of, and after a general
 “ consultation of the ablest heads amongst
 “ them, it was, nemine contradicente,
 “ agreed upon, immediately to make an
 “ addition of their fleet, by building more
 “ canoes, and those to be of the best sort,
 “ and biggest size, as fit for their intended
 “ discovery.—Some Indians were employ-
 “ ed about making the canoes, others to
 “ hunting, every one to the post he was
 “ most fit for, all endeavours tending to-
 “ wards an able fleet and cargo for Eu-
 “ rope.

“ The affair was carried on with a great
 “ deal of secrecy and expedition, so as in
 “ a small time they had gotten a navy,
 “ loading, provisions, and hands ready to
 “ sail; leaving only the old, impotent and
 “ minors at home, till their successful re-
 “ turn.

“ The wind presenting, they set up
 “ their mat sails; and were scarce out of
 “ sight, when there rose a tempest, which
 “ it is supposed carried one part of these
 “ Indian merchants by way of the other
 “ world, whilst the others were taken up
 “ at sea by an *English ship*, and sold for
 “ *Slaves*

“ *Slaves to the islands.*” (Hist. of Carolina, by James Lawson, Gent. Surveyor General of North Carolina, p. 11.)

The ignorance and simplicity of these poor uncultivated Heathens, surely can never be alledged as a sufficient warrant to justify this uncharitable and base act of *the more Heathenish English!*

There is no accounting for such extreme hardness of heart in our countrymen on board the English ship; unless it may be esteemed one of the dire effects of the anti-christian toleration of Slavery in our colonies, which (we may presume) was become so familiar to these unworthy Englishmen, as to have entirely debauched their former principles of humanity and brotherly love.

What depravity, therefore, and corruption of manners have we not reason to dread, if a state of bondage is likewise admitted even into old England itself!

If there be any thing due, as of right, from either of the parties (master or Slave) on their arrival in England, the debt must certainly be on the master's side, on account of the Slave's former services.

The scanty allowance of food and cloaths (usually given to the Slave during his servitude) cannot be considered as a sufficient acknowledgment for the above, because these were not given for the sake of the Slave, but merely for *the interest of the master*, * to enable the former to continue his daily labour ; so that it must be considered much in the same light, as the foddering of a horse, or the expence of *fattening cattle for slaughter* ; because the food is not given on any other consideration, than for the profit of the owner.

Let the planter or merchant, therefore,
 “ *diligently* consider, whether there will

* “ I confess, as to the provision for their bodies,
 “ (says the Rev. Mr. Godwyn in “ the Negroes and
 “ Indians Advocate,” p. 81.) they deny it not to be
 “ expedient, or fit to be allowed them : but this, not
 “ as their *right* or *due*, but as conducive to the *master's*
 “ *convenience and profit*, THE MOST OPERATIVE AND
 “ UNIVERSALLY OWNED PRINCIPLE OF THIS PLACE,
 “ *and indeed of THE WHOLE PLANTATIONS*. They
 “ consider it only in order to the enabling their people
 “ to undergo their *labour*, without which themselves
 “ cannot get riches and great estates ; but nothing (so
 “ far as I could ever learn) for the wretches *health* and
 “ preservation. And both their discourse and most
 “ current practice, do declare no less ; in neither of
 “ which doth appear much *tenderness*. Pity to huma-
 “ nity being here reputed a *pusillanimous* weakness,
 “ and a very back friend to interest. Whence their
 “ houses are so plentifully stored with tormenting *cu-*
 “ *rges*, and devices to execute their *cruelty*, &c.”

“ not

“ not always *remain to the Slave* a superior
 “ property, or right, *to the fruit of his own*
 “ labour ; and more especially, *to his own*
 “ person, that Being which was given him

“ by God, and which none but the giver
 “ can justly claim ?” (See short account
 of the Slave Trade, &c. 3d edit. in the
 Conclusion of the Editor, p. 42.)

“ *The law favoureth a man's person before*
 “ *his possessions,*” (Noy's Maxims, p. 6 & 7.)
 that a man's property in *his own person*, is
 certainly far superior, and ought to be pre-
 ferred to any claim whatsoever, that ano-
 ther person can possibly have upon him, on
 account of his having been formerly a
 Slave, private property, *possession* or *mere*
chattel.—If this, on examination, is really
 found to be true, the master is so far from
 having “ acquired” any “ right” by former
possession to the “ *perpetual service of John*
 “ *or Thomas,*” that he is, himself, *become a*
debtor to his quondam Slaves for all the in-
 voluntary services, for which the latter
 have never been paid ; and therefore the
 former is certainly bound in strict justice
 and honour, (though not perhaps in law)
 to make ample amends to their poor injur-
 ed Slaves for the same ; “ *not only as an act*

“ *of justice* to the individuals, but as a debt
 “ due, on account of the oppression and in-
 “ justice perpetrated on them or their an-
 “ cestors; and as the best means to avert
 “ the judgments of God, which it is to
 “ be feared will fall on families and coun-
 “ tries, in proportion as they have, more
 “ or less, defiled themselves with this ini-
 “ quitous traffick.” (Short account of the
 Slave Trade, &c. p. 65.)

Because even when the Slave was in the
 plantation he *owed* no service to the master,
 as really due *of right* from himself—He
 submitted, indeed, to his master, while he
 thought himself under a necessity of doing
 so, through fear of that undue authority of
 the master, which the tyrannical and un-
 christian laws of our West India colonies
 enforce.

But as soon as he was removed out of
 the reach of those irreligious * laws, *all*
obligation to service ceased, together with

* On a late trial in Westminster-hall, (at which the
 author was present) it appeared from the information
 of a West Indian gentleman, that the intercourse which
 the planters allow between their male and female Slaves,
 is generally no more than what the ancients called a
 Centubernium, and that they “ *look upon marriage to be*
 “ *rather unlawful for their Slaves.*”

Also that their laws *do not punish the murder of a Ne-*
gro Slave any further, than that the murderer is liable to
 pay

the unjust authority of the master, who no longer has any power to compel his quondam Slave to serve him ; for if any compulsion should be used for that purpose in England, (or perhaps in most parts of Europe *) the same must be at the master's peril ; because even the advocates for this "*perpetual service*" are obliged to allow (as I have before observed) that "*the law will protect him*" (the Slave) "*in the enjoyment of his person and his property.*"

For though a poor Slave from the East or West Indies, may not have been "thought of by the legislature, or had in contemplation," (that is with respect to his parti-

pay the small fine of 25 *l.* and (if the Slave is not his own) the customary price at which the Slave is rated. So that the epithet "*irreligious*," (as it admits of various degrees of signification) is too mild a term to be applied to some of the plantation laws and customs, because these in particular which I have mentioned, are certainly *irreligious* to such an extreme degree, that they ought rather to be called *diabolical*, or by any other epithet, which is capable of expressing *the most consummate wickedness*.—It is surely the plainest indication of a most abandoned and profligate generation, that their laws and customs should be found directly repugnant to the laws of God ; for it is a maxim in law, that "*the inferior law must give place to the superior, man's laws to God's laws.*" Noy's Maxims, p. 19.

* "Slaves may claim their freedom as soon as they come into England, Germany, France, &c." Groenwig. Vinnius. ad. lt. quoted in Wood's C. Inst. b. 1. c. ii. p. 114.

cular

cular state or condition, as an Indian, Mulatto, Negro or Slave,) when the several statutes against oppression were made; yet with respect to his condition *as a man*, he is certainly included; because, in this capacity, he cannot be considered in law, as “ *a thing newly created,*” and therefore not thought of by the legislature,—“ *For no*
“ *man, of what estate or condition that he be,*
“ *shall be put out of land or tenement, nor*
“ *taken, nor imprisoned, &c. without be-*
“ *ing brought in answer by due process of*
“ *the law,*” *—because, “ *every man may*
“ *be free to sue for and defend his right in*
“ *our courts, and elsewhere, according to*
“ *law.*” † The same is to be observed likewise with respect to the general capacity of Negroes as SUBJECTS, when in England, for as “ *EVERY ALIEN AND STRANGER*
“ *born out of the King's obedience, not being*
“ *denizen, which now or hereafter shall come*
“ *in or to this realm, &c. IS BOUNDEN by*
“ *and unto the laws and statutes of this realm,*
“ *and to all and singular the contents of the*
“ *same,*” ‡ so it follows of course, that a Negro or Indian Slave in this general capa-

* 28 Edward III. c. iii.

† 20 Edward, c. iv.

‡ 32 Hen. VIII. c. xvi. sect. 9. p. 511.

city of alien, must be accounted a subject, while he is resident in this kingdom; and, as such, he must necessarily be protected by the Habeas Corpus act, || notwithstanding that his *particular state or condition of Slave, Negro, or Indian,* might not have “ *been considered or had in contemplation,*” when the said act was made; because “ NO “ SUBJECT *of this realm, that now is or “ hereafter shall be an inhabitant, &c.— “ shall or may be sent prisoner,”* &c. and because the act is expressly intended “ *for the “ better securing THE LIBERTY OF THE “ SUBJECT.”* For suppose any person should presume to say, that the French protestant Refugees, for instance, (though they are as good, and as loyal subjects as any in his Majesty’s dominions) are not entitled to the privileges and protection of the Habeas Corpus act, or of any of the other acts recited above, because they were

|| This act, as well as the other three acts last mentioned, are so frequently quoted and commented upon, in the foregoing parts of this work, that the author is apprehensive, he may be blamed for tautology; nevertheless, as the genuine sense of these several acts is of the utmost importance to the present subject, he was rather willing to run the risk of offending by repetition, than to seem at all backward or deficient in enforcing such material points.

not

not established in England, when the said acts were made, and therefore could not have been “ *considered or had in contemplation by the legislature,*” so as to be included therein.

If such an argument, I say, should ever be advanced, I doubt not, but that every sensible man of the law would most readily join with me in condemning the doctrine as impious, and contrary to the meaning of our laws : and yet these same alien subjects, *or even the gentlemen of the law themselves*, though Englishmen born, are not protected by any other interpretation of the said laws, than that to which the Negroes and Indians who live in England, *are equally intitled*; (viz. the consideration of their *general capacity* as MEN and SUBJECTS, according to *the letter* of the above-mentioned statutes,) for they are not at all considered in their *particular capacities* of French Protestant Refugee, Lawyer, or by any other particular denomination or profession whatsoever.—Wherefore we may safely conclude THAT ALL SUBJECTS, both natural born and alien, of every denomination, (without exception, *real or implied*) must necessarily be protected according to the literal meaning,
and

and unavoidable construction of the Habeas Corpus act. For there is no law, nor no exceptions (whether real or *implied*,) to justify a breach of what is there enacted, excepting the particular cases mentioned in the 13th and 14th sections; as for instance, sect. xiii.—“ Provided always, that nothing
 “ in this act *extend to give benefit to any*
 “ *person*, who shall by contract in writing
 “ agree with any merchant,” &c.—So the 14th section allows *the transportation* of
 “ persons lawfully convicted of any felony,”
 who “ shall, in open court, *pray to be trans-*
 “ *ported*,” &c.—“ *this act, or any thing*
 “ *therein contained, notwithstanding.*”

Therefore it must necessarily be “ *im-*
 “ *plied*,” that the general terms of this act “ *extend to give benefit*,” in all other cases whatsoever, which can fairly be said to come within the letter of it; and every attempt to *detain, imprison*, or TRANSPORT any person whatsoever as a Slave, while he is an inhabitant of this kingdom, must inevitably be construed as an offence against this statute, because every individual must certainly be considered within the letter and meaning of it, with respect to his *general capacity* of SUBJECT, whether *he be*
native

native or alien, white or negro; and must be protected by it accordingly. No reasonable man (I think) will accuse me of straining the letter of the law to a sinister purpose; for the construction here laid down is founded upon the generous principle * of our laws, and cannot be rejected without a manifest perversion both of *the letter* and *meaning* of the act.

A Slave therefore, on his coming to England, must be absolutely *free*, and not subject to any “claims whatsoever of *perpetual service*,” on account of his former Slavery, as some have imagined: because the doctrine of “*a perpetual service due to the master*,” is, in effect, a *vassalage*, and, as such, is inconsistent with the present spirit of our laws.—For when it was thought proper, as well as equitable, to

* “The law favours liberty, and the freedom of a man from imprisonment, and therefore kind interpretations shall be made on its behalf.” Wood’s Inst. c. i. p. 25. For human nature requireth favour in the cause of freedom, more than in other circumstances.—“*Humana natura, in libertatis causa, favorem semper magis quam in causis aliis deprecetur.*” Fortescue, c. xlvii. p. 109. v.

In cases of doubt, says the civil law, the cause of liberty is to take place. “*Quoties dubia interpretatio libertatis est, secundum libertatem respondendum.*” Digest. lib. l. tit. xvii. leg. 20. and again leg. 122. “*Libertas omnibus rebus favorabilior est.*”

abolish

abolish the *vassalage of Scotland*, (which unnatural yoke of bondage was justly esteemed “ *dangerous to the community **,”) the most effectual means for this salutary purpose were, “ *to extend the influence, benefit, and protection of the King’s laws*” (that is, the laws of England) “ *and courts of justice to all his Majesty’s subjects in Scotland*†.—This is a plain proof that the laws of England were esteemed obnoxious to any involuntary bondage without a just cause, and to all private jurisdiction whatsoever; so that *an extension of the influence, benefit, and protection*” of these laws was considered as a relief to our fellow-subjects in Scotland, from all private oppression.

There are, however, some local exceptions (in the 20th and 21st sections) to this extension of English liberty, which, for the sake of humanity and justice, as

* “ The statute of the present King (then George II.) came last, which abolished some, and limited others, of such of the territorial jurisdictions as were found *dangerous to the community, &c.*” Dalrymple’s History of Feudal Property, p. 246.

† See act of 20 Geo. II. intituled “ An act for taking away and abolishing the heretable jurisdictions in that part of Great Britain called Scotland, &c.”

well as for the honour of the kingdom of Scotland, I sincerely wish to see expunged.

Nevertheless we ought thankfully to remember, that in every other place of Great Britain, where those exceptions do not bind, all private jurisdiction or “*acquired right of perpetual service,*” must necessarily be considered as null and void by the “*influence, benefit and protection of the King’s laws and courts of justice,*” according to the true tenor and meaning of the said act with respect to Scotland; and according to the sense of the legislature, at that time, with respect to England.

What right, therefore, can a master “*acquire*” by his former tyranny in the West Indies, “*to the perpetual service of John or Thomas*” when in England? and how can such a *right* (except a written contract can be produced) be supposed to remain “*exactly in the same state as before?*”

The laws of England admit of no such right, and therefore cannot enforce it, and with respect to the plantation laws, I hope no one will presume to insinuate that their influence can extend in the least degree to the mother country, howsoever they may have been confirmed for the use of the colonies;
for

for “ *should the attempt be made to import any*
 “ *strange laws, contrary TO THE FUNDA-*
 “ *MENTAL MAXIMS of our own, it would*”
 (I hope) “ *always be repulsed with that in-*
 “ *dignation it so justly deserves.*” Dr. Be-
 ver’s Discourse on Jurisprudence and the
 Civil Law.

Whatsoever regard, therefore, may, or
 ought to be paid to the plantation laws at
 Westminster, in some particular cases when
 the question of *property* relates to Slaves
 remaining in the colony where those laws
 were made ; yet when the Negro Slave is
 once removed to England, he cannot in
 the least be affected by any other laws than
 those of England, and must necessarily be
 protected by *the common law of England*, as
 well as by the penal statutes in the same
 manner, and as effectually, as any other
 alien subject whatsoever, which I hope is
 already sufficiently demonstrated.

The honourable Mr. justice Barrington
 (in his observations on the more ancient
 statutes, p. 280.) mentions a notion origi-
 nally inculcated by Wycliff and his follow-
 ers, which began to prevail so early as the
 time of that great lawyer Fitzherbert, “ OF
 “ ITS BEING CONTRARY TO THE PRINCI-
 M “ PLES

“ PLES OF THE CHRISTIAN RELIGION,
 “ THAT ANY ONE SHOULD BE A SLAVE,”
 and from hence, (says he) “ in more mo-
 “ dern times, Slavery hath been supposed to
 “ be *inconsistent with the common law*, which
 “ is said to be founded on Christianity. Be
 “ the law as it may, the persuasion contri-
 “ buted greatly to the abolishing Villen-
 “ age ; and the principle, whether adopted
 “ by *the common law* from Christianity, or
 “ otherwise, cannot be too much com-
 “ mended or insisted upon :” Yet he is
 pleased to add,—“ *I cannot, however, but*
 “ *think*” (says he) “ *that neither the Christian*
 “ *religion, nor the common law, ever inculcat-*
 “ *ed or established such a tenet.*” Now, with
 respect to the former, the iniquitous and in-
 human practices introduced into the Ameri-
 can colonies, by the toleration of Slavery in
 those parts are sufficient proofs, that Slave-
 ry is destructive of *morality* and *charity*,
 and cannot therefore be *consistent* with the
 Christian religion ; because it gives worldly
 minded men a power to deprive their
 Slaves of instruction and spiritual improve-
 ment, by continually oppressing them with
 labour. For mankind in general, howso-
 ever religious they may esteem themselves,

4

are

are not so perfect as to be safely intrusted with absolute power. Avarice, choler, lust, revenge, caprice, and all other human infirmities, according to the different dispositions of men, will too frequently *enslave* the master himself, so as to render him intirely unfit to be entrusted with an absolute power over others. “ THAT ANY
 “ ONE SHOULD BE A SLAVE,” must therefore be contrary to the law *of nature and reason*, and consequently “ *is inconsistent with*
 “ *the common law*”: so that the opinion of the great Fitzherbert is certainly better founded, than that of the honourable and learned gentleman who dissents from him in this particular. And I hope I have before sufficiently proved, that *the common law* and the ancient professors of it, after a long conflict with the barbarity of several generations, were the principal means of abolishing the English Slavery.

I must also observe, that “ *the perpetual*
 “ *service*” of a slave cannot, with propriety, be compared to the temporary service of an apprentice *, because the latter is due only in consequence of a *voluntary contract*,

* See Commentaries on the Laws of England, by William Blackstone, Esq; Vol. I. ch. xiv. p. 425.

wherein both parties have a mutual advantage; but in the former case, there is *no contract*, neither can a contract be even IMPLIED, because *the free consent of both parties* cannot possibly be IMPLIED likewise; and, without this, every kind of contract (in the very nature and Idea of such an obligation) is absolutely *null and void*.—For even a written contract would be useless, as I have before observed, unless the master could prove, that he had previously granted his Slave a manumission in the colonies, and that the quondam Slave *was absolutely free*, when he entered into the said contract, otherwise the Slave may fairly *plead compulsion and duress* *, which must inevitably render the *contract illegal*; because, “ *persons under some illegal restraint, or force, as duress, man’ers,*” (see Sir Matthew Hale’s Analysis, sect. i. p. 4.) “ *come under the title of non-ability,*” for with respect to their capacity of *taking or disposing*, they are in law *disabled*.—So that as

“ *If one is under a just fear of being imprisoned, beaten, &c. and he seals a bond to him that menaces him, it is duress per minas, and in both cases he may plead the duress and avoid the action.*” Wood’s Instit. b. i. c. i. p. 25.

See also Baron Puffendorf, (quoted in p. 10.) in the first part of this work.

a real

a real contract *, made under the restraint

* A learned friend has favoured me with the following remarks, shewing how this matter is considered in the Civil Law.

Before *any contract* can be valid, the civil law requires three conditions, (among many others) which are essential and indispensable.

1. That the parties contracting should have a *legal capacity*; but a Slave does not come under this description; for “*quod attinet ad jus civile, servi pro nullis habentur:*” and again, “*servitutem mortalitati fere comparamus.*” Digest. lib. l. tit. xvii. leg. 32 and 209. A Slave therefore has no more civil or legal capacity, than a man that is actually dead.

2. They must have an *intention* to contract. “*In ea quæ ex duorum pluriumve consensu agitur, omnium voluntas spectetur.*” Digest. xliv. vii. 31. and again, “*in conventionibus contrahentium voluntatem, potius quam verba spectari placuit.*” Digest. l. xvi. 219. Now it can hardly be supposed, that any one can intend to consent to any contract that shall deprive him of the common rights of *humanity*.

3. They must have *liberty*; when therefore the free exercise of that is obstructed by force or fear, the act done in consequence thereof is void, for “*nil consensui tam contrarium est quam vis atque metus, quem comprobare contra bonos mores est.*” Digest. l. xvii. 116. At the same time however, to obviate frivolous pretences, the law says, “*vani timoris justa excusatio non est.*” Digest. l. xvii. 184. and to shew what shall be considered as a just force or fear, describes them in the following manner: “*vis est majoris rei impetus, qui repelli non potest; and again, “non vani hominis, sed qui merito in hominem constantissimum cadat.*” Digest. iv. ii. 2, 5, and 6. A Slave, either captive in war, or sold into bondage, not being under the protection of law, is intirely deprived of all liberty of acting, and may be justly said to be *under fear* of any punishment, however cruel, that his arbitrary master may please to inflict upon him, and *cannot* therefore be a party to *any contract*, whether *express* or *implied*.

of

of imprisonment or Slavery, cannot be valid, it is very evident, that the notion of “ A CONTRACT IMPLIED,” (when under the like circumstances,) must be entirely without foundation.

Hence the idea of “ *a perpetual service*” due to the master, without the free consent of the servant, is certainly inconsistent with the fundamental maxims of the English law, and cannot, with justice, be compared to the *temporary service of an apprentice*.

I hope I may now safely conclude, without further contradiction, that the opinion of Lord Chief Justice Holt, concerning Negroes, is indisputably right; viz. “ *as soon as a Negro comes into England, he becomes free:*” that is, *absolutely free*, without being subject to any *foreign claims* of service whatsoever; for “ it is the honour and safety, and therefore the just desire of kingdoms that recognize no superior but God, that their laws have those two qualifications; viz. 1st, That they be not dependant upon any foreign power, &c.—2dly, That they taste not of *bondage or servitude*; for that derogates from *the dignity* of the kingdom, and
“ from

“ from *the liberties* of the people thereof:”
 Sir Matthew Hale’s History of the Common Law, ch. v. p. 70.

“ Shew me then the *sphere* of man’s Be-
 “ *ing*, and you may quickly find the *mea-*
 “ *sure* of his *freedom* ;” (says the author
 of a book intituled, Rights of the Kingdom, p. 140.) “ his being is by all agreed
 “ to be *Rational* ; and *reason* therefore is
 “ the proper measure of his *liberty*.—For
 “ he is *then free*, when his *activity* is pre-
 “ served equal or proportional to his *Being* ;
 “ this is *Rational*, and so must that : and
 “ man is then, *and then only free*, when he
 “ can act, *what he should act*, according to
 “ *right reason*.—This is the law of his na-
 “ *ture*, which is *rational* ; and *reason* is his
 “ royal collar of S. S. S. or a chain of
 “ precious pearls, which *nature* hath put
 “ about his neck and arms, as a badge of
 “ honour and most happy freedom.”

“ This digression would be scarce excu-
 “ sable ; but that our law doth so adore
 “ *right reason*, that (it) is a maxim, *what*
 “ *is contrary to reason*, is contrary to law.”

F I N I S.

E R R A T A.

Page 13. line 7. for *as an absolute authority*, read *by absolute an authority*.

Page 58. line 12. for *Servants*, read *Servant*.

Page 99. line 7. for *person of men*, read *persons*.

Page 147. line 7. the Sewces, a particular tribe of Indians in Carolina, “seeing several ships, &c. the quotation begins at the word “*seeing*, &c.

Page 149. line 2. for *James Lawson*, read *John Lawson*.

Page 157. line 3. for *no exceptions*, read *any exceptions*.