CHAPTER VI.

OF THIS STATE OF SLAVERY IN RESPECT OF ITS COMMENCEMENT AND DISSOLUTION.

SECTION I.

REASONS FOR THIS BRANCH OF THE ENQUIRY.

The hardiest champion of the colonies will scarcely refuse to admit, that if there are justifiable causes of slavery, there are also causes of an opposite kind; or that, where such an institution prevails, it is possible for a man to be deprived of his freedom by means manifestly unjust, and quite beyond the reach of any moral defence. Wherever, then, private slavery exists, the law ought carefully to define the legitimate sources of the state, and to guard against its wrongful imposition.

It may also, perhaps, be further conceded, that the favour shown by every servile code, ancient or modern, those of our own islands in our own times excepted, to enfranchisement, has not been wholly wrong; and that there are cases in which it may be fit to allow a slave to emerge from his hapless condition into freedom. If so, the law should provide for those cases; and permit, if not encourage, manumissions.

At all events, an account of the law of colonial slavery would be imperfect, if it should leave unnoticed those rules which apply to the origin of the state, and the means by which it may be dissolved.

SECTION II.

OF THE SOURCES FROM WHICH SLAVERY MAY ORIGINATE.

It may be convenient here to consider, in the first place, what the servile codes of other ages and countries have declared or enacted on this important head.

The compilers of the Justinian Institute distinguished three general sources of slavery: first, birth, which was when the mother was a slave; secondly, captivity in war, which they re-
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garded as subjecting the captive to slavery by the law of nations; and, thirdly, the civil law, when a freeman of above twenty years of age suffered himself to be sold for the sake of participating in the price. *

The enumeration seems at first sight to be incomplete; because a father had the power of selling his children, without their consent or participation in the price, at any age; and men were also liable to lose their liberty by convictions for various offences; so likewise for refusing to be inrolled as soldiers upon a military census or conscription; perhaps also for ingratitude to a former master, by whom they had been enfranchised.† Slavery by voluntary contract, therefore,

* "Servi aut nascuntur, aut fiunt. Nascuntur ex ancillis nostris; fiunt, " aut jure gentium, id est ex captivitate; aut jure civili, cum liber homo, " major viginti annis, ad pretium participandum, sese venundari passus est." (Instit. Justin. Lib. i. Tit. 5. Sect. 4.)

Roman citizens, in the better times of the republic, were not permitted to sell themselves into servitude. It was afterwards permitted on the terms here mentioned; but by a constitution of the Emperor Leo, the power of thus creating slavery by contract was taken away; and both the buyer and seller were punished with whipping, for entering into so shameful an agreement. Novel. Const. Imp. Leo. 59.

The qualified and temporary servitude of insolvent debtors, " in servitu tutem creditoribus addicti," had been abolished in the times of the republic. It was a state distinguishable from slavery properly so called, and was rather a suspension, than privation, of Roman freedom; for the debtor, when enfranchised or released, became not libertinus but ingenuus; not a freedman, subject to the former master's rights of patronage, but absolutely free, like those who were freeborn. Quinctilian, Inst. Lib. 7. Cap. 3.

† This, though asserted by many modern authors, seems very questionable; unless the proposition be restricted to those imperfect enfranchisements of which I shall hereafter have to speak. Where the manumission was regular and perfect, it seems that the former master had not the power to reclaim his freedman into bondage on account of ingratitude, but only that of banishing him to a short distance from Rome. Such, at least, was clearly the rule in the time of Nero; for the senate wished to obtain from him a decree altering the law in that respect, on account of the alleged ingratitude and insolence of the freedmen in general. They wished to obtain the power of revoking in such cases the enfranchisement; but this the Emperor refused. It is not suggested in the debates on this occasion, as recorded by Tacitus, that the power which the promoters of the decree desired had any sanction in ancient law or usage. It may therefore, I think, be inferred, that the crime of ingratitude to a patron was not punishable by the forfeiture of freedom, except in cases of irregular
must either have been specified in the Institute as an example only of the cases in which freeborn men might become slaves by force of the civil law; or else, which I rather believe, the compilers had accurately in view a distinction between slavery, properly so called, and penal servitude, which has been generally overlooked by modern writers on this subject. The son, while under the father's power, was not considered in law as a free man; and when sold by order of the pater familias, his new state seems to have been of the nature of penal bondage. Had it been ordinary slavery, the master's manumission would have dissolved it, and made him a free person; whereas the father, as a magistrate whose sentence had been eluded, might seize and sell him again a second and a third time.

The law of slavery among the Greeks and other ancient nations, as to the origin of the slave's condition, was, in general, nearly the same with the Roman, with the exception of the father's power to sell; in regard to which, the latter was, I apprehend, without a precedent.* Captivity in war, birth of a bondwoman, and the contracts of free persons submitting willingly to slavery, were every where the ordinary legitimate sources of the state; and of these, the first was by far the most productive.

The practice of gaming away their freedom is remarked by Tacitus as a peculiarity of the ancient Germans; but this was in effect slavery by voluntary contract. †

and imperfect manumissions, which the master had power to revoke. See Tacitus's Annals, Book xiii. Cap. 26, 27.

* By the laws of Solon, a father or brother might sell the daughter or sister, when convicted of unchastity; but in no other case. Plutarch, Life of Solon.

† And it was enforced by the point of honour; the loser willingly surrendering himself to be sold by the winner. Ea est in re prava pervicacia, ipsi fidel amovant. Tacitus de Mor. Germ.

If we had no other proof of the extreme mildness of the ancient German slavery, when compared with that of the West Indies, this fact might alone suffice. If the slave had been an object of such contempt as to make his condition infamous, and if his work had been exacted by the ignominious lash, the point of honour could never have dictated a submission to slavery. In our colonies, no breach of honorary duty, or any other crime, however flagitious, that a free man could possibly commit, would attach to him half the ignominy that belongs to slavery itself. But the German state, as I have shown, was rather vassalage than slavery.
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In most countries, ancient and modern, not excepting our own, men have also sometimes forfeited their freedom by judicial sentences, for crimes against the state; but their penal condition, while employed in the service of the public, as galley-slaves, ballast-heavers, and the like, has generally been very distinct from the state of private bondage, and may deserve therefore a separate consideration.

SECTION III.

OF PENAL SLAVERY, OR THE STATE OF SERVILE CONVICTS.

Some eminent champions of the colonial system have, both by their writings, and in parliamentary debate, challenged a comparison between the slavery of the British colonies and that of ancient Rome. The assembly of Jamaica, also, in a Report transmitted to His Majesty's government, and laid on the tables of parliament, has attempted to vindicate its own slave code by the same comparison.*

If English Christian legislators had really been less unjust and less cruel in their institutions than a Pagan people, whose servile code confessedly had no parallel for its severity in the ancient world, such a superiority would afford but a very disreputable boast: more especially, when the worst period of Roman slavery, prior to its reformation by law, is that from which every instance of cruelty adduced for the purpose of such a comparison has been drawn. It has, however, partly appeared already in this work, and shall be made completely manifest before I conclude, that the Roman slave, even under Tiberius and Nero, was in a state less degraded and less wretched than that of our colonial negroes.

In that Jamaica Report, as in other controversial pieces, the distinction between the ordinary private slavery of Rome, and that which forms the subject of the present section, penal servitude is wholly overlooked, and severities which belonged to the latter are attributed to Roman slavery at large. It is, I admit, an inaccuracy for which great modern authority might be pleaded; and I therefore do not so much blame the

* Report of 1815, on the Register Bill before referred to.
Assembly for exaggerating in this instance the cruelty of Roman laws and manners, as for unfairly extenuating and misrepresenting their own.

It is not untrue, though alleged in that most disingenuous and fallacious Report, that the slaves of the *ergastula*, the private prisons or workhouses, were often forced to work in chains; that great numbers of men were so treated; and that the practice was very common all over Italy: but it is equally true, that the subjects of this severity were not slaves, in the ordinary sense of that private relation; but convicts, suffering under the sentence of competent courts or judges, which had either reduced them from freedom to servitude, or condemned them, being slaves, to a deteriorated condition, for real or imputed crimes. Their treatment, therefore, cannot be fairly compared with that of our plantation negroes, to the advantage or disadvantage of the laws by which they were respectively governed. They were not even known by the same name with ordinary slaves; except when spoken of in a loose and inaccurate way. They were called, not *servi* or *mancipii*; but *servi pæne* and *ergastuli*; the former being convicts condemned by the civil magistrate; the latter, criminal or refractory slaves, adjudged to imprisonment or chains by the *pater familias*, or master, in his domestic forum. But it may be proper to speak of each of these a little more fully and distinctly.

*Of the Servi Pæne, and Ergastuli.*

The Roman magistrate had the power of reducing, by his sentence, a free man to servitude for high crimes against the state; but the condition into which the convict passed was not, strictly speaking, slavery. It was, in fact, so much worse than private bondage, that a slave, when convicted of public crimes, had sometimes no other punishment than the change from the one state to the other. In some respects, however,

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* By the classical writers, *ergastula* appears to have been often used to denote the criminal slaves confined in private prisons or workhouses, as well as the prisons themselves; but *ergastuli* was afterwards generally substituted for the former.
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it strongly resembled slavery, and especially in the total privation or suspension of civil rights. Every free man who, under the Roman law, incurred a capital sentence, *dirinutio capitis*, forfeited from that moment his civil character or personality. He ceased to be a citizen or subject; and became, according to the language of English jurists, dead in law. So far his new condition was that of the private slave; who had no civil existence, being regarded not as a *person* but a *thing*. The Roman lawyers naturally enough, therefore, called such a convict, when his life was spared, and penal labours imposed upon him, *servus*, or slave: but some further designation was necessary to distinguish his peculiar condition; and to have called him a slave of the public, or of the emperor, would have been improper; because men standing in that relation to the state were privileged beyond all others of a servile condition. They therefore denominated these convicts *servi pœnae*, or slaves of punishment; personifying, as it were, the vengeance of the law, and placing it in the relation of master.

From this metaphor or fiction, several curious, and some humane, practical consequences were deduced. The *servus pœnae*, for instance, who had been a private slave at the time of his conviction, was, on any deliverance from his sentence by pardon or otherwise, no longer in a servile condition, but entitled to freedom; for the rights of his former master, having been transferred to punishment, could no longer be asserted by him; and a release from his new metaphorical master was enfranchisement. Thus, if he was sentenced to fight as a gladiator, or with wild beasts at the public shows, and escaped with life, or if, after being sent to the mines or mineral works, he was pardoned by the emperor, he became a free man.†

* Pliny's Epistles, Book x. Epist. 40, 41.
† Servos in metallum, vel in opus metalli, item in ludum venatorium dare solere, nulla dubitatio est; et si fuerint dati, servi pœnae efficiuntur, nec ad eum pertinebunt cujus fuerint antequam damnarentur. Denique cum quidam servus in metallum damnatus benefcio Principis esset jam pœna liberatus, Imperator Antoninus rectissime rescripsit, quia semel domini esse desierat, servus pœnae factus, non esse eum in potestatem domini postea reddendum. (Dig. Lib. 48. Tit. 19. De Pœnis. Sect. 8.)
An exception annexed to this rule might alone suffice to show that the working in chains was not the ordinary lot of private slaves, as the Jamaica Assembly supposes, but rather regarded as a severe punishment for their crimes, and which humane masters were very unwilling to inflict; for when the sentence of the magistrate was that the convicted slave should be kept in chains, either perpetually or for a limited period, the master's property in him was not taken away; but in that case he was to be delivered back to the master, to be kept in chains by him.* It was supposed, however, that the latter might probably refuse to receive his slave under the odious condition of executing such a sentence; and therefore it was provided that in this case the slave should be sold; and if, from the same objection, a purchaser could not be found, he was to be sent for life to the public works.†

Among the consequences of a harsh kind, deduced from the same legal fiction, any gift by will to a man in this state of penal servitude was void, quasi non Cæsaris servo datum sed pœnæ; and therefore could not avail him, as it might a private slave by favour of the master. But it was a more painful distinction in the lot of the servus pœnæ, when condemned to the mines or other public works, that to prevent his escape, he was generally or always kept in chains. He was also, for the same reason, branded with marks or inscriptions; and these were often put on the face, till Constantine humanely prohibited so disfiguring the human countenance, observing that there was room enough for the inscription of the sentence on the hands or thighs of the convict. §

In analogy to these inflictions by the public magistrate, the pater familias, or lord of the Roman household, who had judicial authority over his slaves and children, even to the extent of capital punishments, established his ergastulum, a domestic prison and workhouse, and condemned his criminal slaves to such periods of confinement and penal labour in it, as their offences seemed to him to deserve: adding, in heinous cases, stripes, or severer corporal punishments, and even death itself. On his domains in the country, the ergastuli

Ibid. Sect. 17. § Cod. Lib. 9. Tit. 47. Sect. 17.
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were brought out in the daytime to their rural labours; but
to denote their correctional state, and to prevent their escape,
they often, like the servi pœnae on the public works, wore
chains, or gyves (compedes) on their legs. Such treatment,
however unjustly and fraudulently it may often have been
inflicted, seems clearly to have been of a penal and judicial
kind, imposed by order of the domestic forum, and often, no
doubt, for offences which the civil magistrate would otherwise
have taken notice of, and punished with death or the mines.
It was probably inflicted for those heinous crimes alone in the
better times of the republic, before the general corruption of
manners had produced that gross abuse of these domestic
powers, which I shall presently notice.

That the pater familias had concurrent jurisdiction with the
civil magistrate, in cases of public and capital crimes com-
mited by his slaves, is clear. In a passage in Horace, for in-
stance, which I have already cited, the poet represents him-
self as the judge who could condemn or absolve his slaves,
even in questions of theft and murder.

It is mentioned by Plutarch in his Life of the Elder Cato,
that before he condemned his slaves to death for offences that
deserved it, he consulted their fellow-slaves, and followed their
opinion; thus introducing trial by jury, as it were, into his
own domestic forum in cases of a capital kind.*

I am far from defending the Roman law in its thus en-
trusting every private master, when the head of a family, with
the power of a civil magistrate. The only excuse for it is,
that the law was so settled in times of antient simplicity and
virtue, when masters, instead of the enormous multitudes of
slaves which they afterwards acquired, and regarded with a
disdainful eye, possessed but a few of these domestics, and
lived among them with a familiarity that naturally inspired

* There is a curious passage in the Digest (Lib. xi. Tit. 4. Sect. 5.), from
which it appears, that slaves who had committed theft or other heinous
crimes, sometimes eluded the master's jurisdiction, by surrendering them-
selves as servi pœnae to fight with wild beasts in the amphitheatre; thereby
obtaining enfranchisement if they survived the combat. To prevent this
practice, a rescript of Antoninus directed them to be delivered up to the
master, even after the fight, if the fraud was not sooner discovered.
mutual attachment, confidence, and kindness.* It might have seemed, therefore, almost as safe to intrust a private master

* We learn from Plutarch, that Cato the elder, who laboured to restore the simplicity of antient manners, worked at his country farm in common with his slaves, and sat down with them afterwards to his meals, eating the same bread, and drinking the same wine. We are also told of his helping the single slave that accompanied him in his campaigns to dress his own dinner.

There is a great blemish in the Censor's character as a master, for which Plutarch gives him a strong and just reprehension. Among his rigid sump-tuary maxims, one was to sell his slaves, when, from old age or infirmity, they were no longer so profitable as those young men whom it was his thrifty rule to purchase. This is an anecdote quoted by the Jamaica Assembly, in the report just now referred to, and one on which all the apologists of colonial slavery delight to dwell. They would fain characterize from this single trait the Roman masters in general; forgetting that its singularity is the very cause of its being mentioned by Plutarch, as illustrative of the peculiar character of Cato. How inconsistent is this with their own complaints, when some remarkable instance of West Indian cruelty, remarkable perhaps only through the extreme difficulty of bringing such crimes to light, is adduced by a friend to reformation! They then exclaim loudly against the very notice of such a fact, as unfair towards the colonists in general, even though the criminal was protected by juries, countenanced by legislative bodies, and an object of favour or sympathy with the white community at large.

Some of those gentlemen go much farther, too, in their use of this Roman anecdote, than the history of it warrants. They say, "that Cato " turned out his aged slaves to starve;" whereas Plutarch's statement is, that he sold them; which plainly implies, that they were able to earn their own subsistence, and something more; otherwise no purchaser could have been found. The humane and just censure of the Pagan biographer turns on considerations which our planters and assemblies should blush to read. "I would never," says he, "part with an old servant for a little " money, and expel him, as it were, from his country, by turning him out " of his house, and forcing him from his usual place of abode and manner of " living." Plutarch therefore would have abhorred those colonial laws as to executions for debt, and those removals by the master's authority, which the assemblies pertinaciously maintain.

After all, the inhumanity of which one Roman is here accused is a common practice of masters in the British Colonies. The planters not only sell and remove their slaves without scruple, old and young together, but sometimes turn them out to starve, when they cannot be sold, because unable, through age or infirmity, to work. This appears from various acts of assembly in different islands which I shall soon have occasion to refer to, as well as from several which I have already noticed. If the assemblies are to be credited in the pretexts they now set up to excuse their recent
with judicial authority over his slaves, as over his own children, to whom the same power extended; and it was the general policy of the Roman law to uphold a kind of patriarchal government in private life; so that every family was said to form within itself a petty state (pusillum rempublicam), of which the pater familias was the head.

But among the antient people, as among the European colonists of the new world, the slaves in general were far from being benefited by the increase of their master’s wealth, and of the luxury or refinement of his manners. On the contrary, his ascent in the social scale was their degradation. As he enlarged his domains, and multiplied his servile dependants, his personal intercourse with them, and knowledge of their individual characters, of course, declined; and in proportion as he advanced in luxury and pride, he became contemptuous or indifferent towards those poor drudges who supported his state and cultivated his lands. He could no

restraints of enfranchisement, it has been common for planters to add fraud to these cruelties; giving manumissions to their useless and helpless slaves, in order to avoid the charge, such as law might enforce, of their future subsistence.

I cannot help recommending to the Jamaica reporters to contemplate the slaves of the Roman Censor, rigid and penurious though he was, not only drinking wine at their meals, but dining at the same table with their master. In his Treatise De Re Rustica, we find that his allowance of wine was not scanty. He thinks it not too much for each slave to have his bottle every day. “Eos non est minimum in annos singulos vini quadrantalia decem ebibere.” The quadrantal being nine gallons of our measure, this is 360 quarts per annum for every man.

Amidst all the gross misrepresentations respecting the food of the poor Negroes with which the European ear has been deceived, it has not yet, to my knowledge, been asserted that their ordinary beverage is any thing but water; and well would it be for a large majority of them in some of our islands, if that element in its purity were provided for, or could easily be obtained by them. As to the masters eating of their food, or sitting down at the same table with them, (if tables they had,) I am sure every colonial reader would feel disgust and ridicule vying with each other in his mind at the nauseous and preposterous thought. Even the slightest mixture of their blood, though purified by freedom for generations, is a badge of ineffable contempt; and the meanest of the white Creoles, to quote the words of their countryman and advocate Mr. B. Edwards, History W. Indies, Vol. 2. Book 4. Chap. 19. holds it “an abomination to eat bread” not only with those ignominious bondmen, but with any of their descendants.
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longer in general distinguish, nor well appreciate their particular merits, their sufferings, or their toils. He shrank also from the arduous labour of exercising personally and discriminatorily the domestic jurisdiction with which he was entrusted over many hundreds or thousands of slaves.* He therefore delegated his authority in most cases to stewards and other agents: and adopted progressively that indiscriminate severity of punishment, which, in civil or domestic government, is the ordinary substitute for the cultivation of moral character, and for an active and beneficent police.

For these reasons, the power of the master in his family tribunal, which in the best times of the republic was rarely perhaps abused, became, when Roman wealth and luxury had reached their zenith, and especially during that great corruption of manners which reigned during the civil wars, and under the earlier emperors, a source of much oppression. The ergastuli were in consequence multiplied, especially in the country; and great numbers of men were seen cultivating the extensive domains of the wealthy nobles in chains.

Another cause powerfully concurred to aggravate this abuse. The Roman empire having, under Augustus, almost made a final end of foreign wars, by reducing a large part of the known world to its yoke, the grand supply of the slave market, captivity in war, was nearly cut off; for citizens made prisoners in civil wars were not liable to be sold as slaves. Mr. Gibbon, like Mr. Hume, justly regards this as the original predisposing cause which first led to the reformation of Roman slavery. But like the abolition of the British slave trade in our colonies, this cause did not immediately operate, with its proper tendency and force, on the minds of Roman land-holders; because, like our planters, they looked to, and they found a resource of an illicit kind. They seized forcibly on free persons, especially strangers, when travelling on the public roads near their estates: carried them to an ergastulum; and there, under pretence of their being criminals or fugitive slaves, confined them by night, working them in

* Some of the wealthy Romans are said to have possessed 10,000 or more.
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chains by day. The fear of their escaping and complaining to the civil magistrate, made it necessary that these victims of lawless violence should be permanently so treated. The free-
man, therefore, when kidnapped became wrongfully and fraudulently an ergastulus, or convicted criminal slave, for life.

These abuses, becoming at length notorious and intolerable, the emperors appointed magistrates or commissioners to visit the ergastula, and deliver all such free persons as were found in them. But the remedy, it would appear, had at best a very partial effect; the inquest no doubt was often carelessly conducted, or might be easily eluded; and a man actually held in slavery might be intimidated from claiming his free-
dom, or disabled from maintaining the claim. A public register, which alone could have effectually checked the man-stealing practice, was an expedient I presume not suggested. The emperors therefore were not guilty of rejecting it, or leaving the masters themselves to frame and nullify its regulations.

From these causes, and from progressive severity, the natural fruit of such oppression, (the disposition to desert, and the harsh means of prevention, reciprocally inflaming each other,) the great numbers of chained labourers in Italy may easily be accounted for, without supposing that they comprised any other slaves than servi pecnae and ergastuli, the convicts of the public or domestic tribunals.*

* The character was often, as I have admitted, fraudulently imposed upon the ergastuli; but still it was as convicted criminals, not as unoffending slaves, that they were branded and chained; and when authors of that age, speaking of private laborers, call them vincti fossores and catenati cultores, &c. they clearly mean not ordinary slaves, but such as for real or imputed crimes had been condemned to the ergastulum.

The elder Pliny, in the passages commonly cited from him to show the great frequency of the practice, plainly confirms these views; for he calls them, at the same time, "damnatae manus, ergastuli, and inscripti." "Vincti pedes damnatae manus, inscriptique vultus, arva excercent." (Lib. xviii. Cap. 5.) A learned commentator on this passage shows, that such slaves were in general regarded as heinous offenders condemned and sold by public auction, and hence called by Columella "de lapide noxios," which may be translated "felons sold by the crier," "fures, percussores, qui virginem constuprassent, viti-" nos, gravis criminiis reos, noxae debitos, veni-
" reque ad lapidem ideo jussos." He refers also to a term in Plautus, which plainly indicates that wearing chains was peculiar to and character-
Though I have deemed it proper thus to correct a great error of my opponents, and to reduce the discredit of Roman slavery to its true standard, let it not be supposed that there

istic of this class of convicted slaves; for he humorously calls them *genus ferratilis*, or the iron race. And Pliny elsewhere uses the term *ergastuli* to designate generally all those his former descriptions of *vincti*, &c. when he says, "Coli rura *ab ergastulis*, pessimum est; et quicquid agitur a desperan-
tibus." (Lib. xviii. Cap. 6.) This censure might alone serve to show the distinction between these and the enslaved labourers in general, whose state he does not condemn. The two classes are, I admit, often confounded together by modern writers of eminence, who have treated of the Roman slavery, and they are not always clearly distinguished by the original authorities; yet on a careful attention to the latter it will be found, that the distinction here taken is always understood where not expressed. The chained and branded labourers are not only described by the peculiar apppellations which I have noticed; but these descriptions are sometimes put in direct opposition to that of *servi* or slaves; as in this passage of Apuleius; "Quindecim liberes homines populus est, totidem servi familia, totidem " *vincti ergastulum.*" *Vincti*, or chained slaves, and *ergastuli*, here plainly appear to have been synonymous expressions.

Nor is the complaint of the mutinous insolvent debtors in Livy less decisive. These men being dragged into a penal servitude by their creditors, and treated with great severity, one of their ringleaders is introduced as thus describing and probably exaggerating the case, "ductum se ab credi-
tore, non in servitium sed in ergastulum et carnificinam esse." (Livii Hist. Lib. ii. Cap. 23.

But authority more conclusively in point cannot be desired than one to which the Jamaica Assembly, relying upon Mr. Hume's Essay, and I presume without any examination of the authors cited by him, ventures to refer.

Columella, the reporters tell us, recommends calling over the names of the slaves in the *ergastulum* every day, to discover early if any of them had deserted; from which they infer the severe treatment of the Roman slaves in general. But Columella, on a reference to the passage, will be found clearly and expressly to distinguish as the subjects of this advice the chained slaves (*vincti*), whom he defines by the further description of *ergastuli*, and by the immediate context he shows that these were men condemned for their offences to be put in chains under the authority of the *pater familias*.

"Itaque mancipia *vincta* quae sunt *ergastuli*, per normam quotidian citare de-
bebit (villicus), atque explorare ut sint compedibus diligenter innixa;" *tum etiam custodiae sedes an tuta et recte munita sit; nec si quem domi-
"nus aut ipse *vinxerit sine jussu patris familiae, resolvat.*" (Columella de Re Rustica, Lib. xi. Cap. 1.)

In many other parts of his work this author speaks not less clearly to the same effect; and indeed will be found uniformly to keep in view the
is no other answer to the strange boast, of which that error is the basis.

If to be branded, and to labour in chains or other irons, and to be shut up in prison at night, had been the frequent lot of

important distinctions between the ergastuli, and the ordinary slaves, employed on the Roman farms. In the seventh chapter, for instance, of his first book, (De Officiis Patris Familias,) and the chapter following, in which he strongly inculcates as the first duty of the lord, the care of his rural labourers in general, he distinguishes them into coloni or vassals (the same I apprehend in this place as the adscripti glebeo,) servi soluti, or ordinary slaves, and vineti or ergastuli.

"Precipua cura domini requiritur, cum in cæteris rebus, tum maxime in hominibus. Atque hi, vel coloni vel servi sunt soluti, aut vineti."

He gives admirable precepts for the humane government of them all; some of which I shall hereafter quote; and I wish that the gentlemen of the Jamaica Assembly would, in this instance, not content themselves with Mr. Hume's brief quotations, but read the original author. They might learn much from him as to the proper treatment of their slaves, and the superintendence of their overseers and managers. As to the point in question, he more particularly and earnestly enjoins a frequent and careful inquest by the pater familias, as to the treatment of the ergastuli, because, from their situation, they were more likely to be neglected or oppressed by his agents than ordinary slaves. He is accordingly advised to inquire —

"Num villicus, aut alligatorit quempiam domino nesciente, aut revixerit: nam utrumque maxime servare debet, ut et quem pater-familias tali pieta multaverit, villicus nisi ejusdem permissu, compeditus non eximat, et quem ipse sua sponte vixerit, antequam sciat dominus non resolvat; tanteque curiosior inquisitio patris-familias debet esse pro tali genere servorum, ne aut in vestiariis, aut in cæteris prebitis injuriose tractentur, quanto et pluribus subjectis, ut villicis operum magistri, ut ergastulariis (the keepers of the ergastulum) magis obnoxii perpetiendi injuriis, et rursus saevitiae atque avaritia laesi magis tenuendi sunt. Itaque diligens dominus, cum et ab ipsis, tum et ab solutis, quibus major est fides, quaerat an, ex sua constitutione, justa percipiant."

Surely my Jamaica censors will regret having referred me to Columella, when I add part of his detail of these duties of the master. He is not only to taste the bread of the ergastuli, and other slaves, but their wine, "atque ipse panis, potionisque bonitatem, gusta suo exploret." It appears from this work, as well as from Cato's and Varro's on the same subject, that wine was given to the slaves as their ordinary drink; and we find here that it was not to be of the worst sort. He adds, "vestem manicas pedumque tegmina recognoscat." — What? not only vests and coats with sleeves, but shoes or sandals also for slaves!! or how else are we to translate tegmina pedum? If the ergastulus sometimes wore gyves, he was not, it seems, also
the Roman slave when unconvicted of any crime by a legitimate tribunal, he would not in this respect have lost that superiority to the unfortunate Negro, which I have shown him to have, in so many other points, possessed.

Respecting the brands, or stigmata, of the ergastuli, on which, as well as the chains, the writers who condemn their treatment commonly expatiate, the Jamaica reporters are very observably silent, though inscripti vultus, as we have seen, is barefooted. Our planters, as I shall hereafter show, imitate here by halves. They often give the gyves, but never the shoes; at least to the field negroes, though very many lose their toes from the want of them, by the various injuries to which their naked feet are exposed.

In another place this author is, if possible, still more decisive as to the distinction in question. Having spoken of work for which the vineti, or as he there calls them alligati were peculiarly fitted, he interposes a caution lest he should be thought in general to prefer these unfortunate labourers to others, contrasting them by the terms noxii et innocentes, guilty and innocent, ne quis existimet in ea me opinione versari qua malim per noxios quam per innocentes, rura colere. Lib. i. Cap. 9.

While withholding or overlooking these explanations, and thereby falaciously holding out the treatment of the ergastuli as a picture of Roman slavery in general, the Assembly, with admirable modesty, strongly censures the author of these sheets for want of candour, in not fully quoting Mr. Hume's Essay on the populousness of ancient nations for the same incorrect views. (See the Report, pp. 21, 22.)

As I cited Mr. Hume's Essay, not for a description of the Roman slavery, but only for his opinion, that the loss of a foreign slave-market led to its reformation, it is not easy to see how candour required of me to insert his account of the treatment of slaves. As Hume, like our Johnsons, our Gibbons, and most other high literary characters among the moderns, was a decided enemy to the odious and pernicious institution of slavery, the Assembly would have gained nothing by my quoting his Essay more fully. I doubt, for instance, whether they would have liked the publication they refer to better, had I inserted in it, from the same Essay, the following passage: "The remains which are found of domestic slavery in the American colonies, and among some European nations, would never surely create a desire of rendering it more universal. The little humanity commonly observed in persons accustomed from their infancy to exercise so great authority over their fellow-creatures, and to trample upon human nature, were sufficient alone to disgust us with that unbounded dominion. Nor can a more probable reason be assigned for the severe, I might say barbarous, manners of ancient times, than the practice of domestic slavery; by which every man of rank was rendered a petty tyrant, and educated amidst the flattery, submission, and low debasement of his slaves."
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added to *vincti pedes*, in the description to which Mr. Hume referred them. Here, however, they may challenge some praise for modesty or prudence. They recollected, no doubt, that a very large proportion of all the field Negroes in their own island are treated in the same way; being branded with the owner’s name or marks, that they may be known in the event of their desertion; and this by the master’s authority, and for his interest alone, and without the imputation of a fault.*

I am here anticipating part of the second grand division of my work, as this statement belongs rather to the practice than the law of slavery. But having been led by the comparison with Roman slavery, to which the Assembly has challenged me, to notice these brands, it may be due to our other colonies to state, that Jamaica stands alone in the use of them; I am not informed, at least, of the prevalence of the practice in any other British island; but it must be admitted, that from their smaller extent and population, the temptation to it is not so strong. The reproach of it consists not so much in the pain of the branding, which, though not inconsiderable, may be brief, as in the coarse and contemptuous affront thus offered to the sacred human form, by stamping upon it an unsightly and indelible record of a degraded and ignominious condition. It tends to harden the feelings of those who hourly behold it; speaking to the senses that opprobrious truth, “This man is the absolute property of another, and on “a level with the beasts that perish.” Nay, it exhibits the poor branded slave as property of a more sordid kind, and

* If a fact so notorious is thought to require any evidence, I refer generally to the Gazettes of that island, files of which may be found in Lloyd’s and other coffee-houses in London. In the advertisements with which they abound for the apprehension of fugitive slaves, or for the sale of unknown Negroes detained in the workhouses, the master’s marks or brands are very frequently mentioned. See also an Act of 1795, Sect. 2. Printed Papers of April, 1816, Ho. Com. p. 85. “If any one shall mark a slave, the property of another, or deface his or her mark, he shall suffer death as a felon.”

Yet be it observed, that when it was proposed by the Register Bill to insert a slave’s marks in the registered description, the Assembly of Jamaica, like the rest, was indignant, or affected to be so, and took care to omit in its own ostensible register act all such inconvenient means of identification.
more despised by its owner, than the steed that carries him, or the dog that runs by his side; since he would not disfigure the sleek coat of either of these by a similar badge of the property he holds in them, but reserves it for animals of small account, whom he turns loose on the common or forest. *

In respect of the chains or irons which the Roman *ergastulus* wore, a comparison was thought more convenient and safe; for Jamaica has, by its last consolidated slave act, as I have before observed, so far redeemed itself from its former reproach, as to prohibit the imposition of chains or irons, "a collar without prongs excepted." How far the prohibition

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* The author thinks it right, for more reasons than one, to notice in this place, that in a plan of regulations which he submitted to His Majesty's ministers in 1807, for securing the Negroes enfranchised by the Abolition Act from being kidnapped, or fraudulently converted from apprentices into slaves, (a plan which, though partially adopted, was *fatally* departed from, in some of its most essential precautions, by the subsequent order in council,) he proposed that the Africans, on their being delivered over to the protecting officer to be enlisted or otherwise provided for, should be branded in the Jamaica mode, on some convenient part of the body, with the word "free," or some other royal stamp, denoting their judicial enfranchisement; thinking, that though the branding them with the opprobrious badges of slavery is odious, there was no sound objection to giving them a like indelible record of their title to the inestimable blessing of freedom, and to the protection of the crown in its enjoyment. For what reason this part of his plan was omitted, he never learned; but presumes that the proposal was overruled at the council-board, from views either of false tenderness to the unfortunate subjects of it, or, which is more probable, from false delicacy towards the gentlemen of the colonies. On the latter principle only, as he has good reason to believe, a still more important part of his plan was rejected; that which prohibited the apprenticing those poor Africans *to the planters for agricultural labour*, unless after their rejection, not only by the commanders in chief as soldiers or sailors, but by tradesmen and artizans of all descriptions, to whom they were previously and publicly to be offered as apprentices.

The just and humane intentions of the legislature have been cruelly reversed in practice; the apprenticed Negroes have been wrongfully enslaved and destroyed, as official information has attested in painful detail; and abolitionists have borne the blame; though the chief cause has been a neglect of those precautions against such abuses which they pointed out from the beginning, as indispensably necessary, and which were probably omitted from a false complaisance to their present accusers alone.
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is calculated to be effectual, will be seen from the observations which I have already made on that subject.

But let colonial slavery, in comparison with the worst species of slavery in Rome, have the benefit of this recent prohibition. On the other hand, in this island of Jamaica and others, there are workhouses, (so they tenderly call their houses of correction and penal imprisonment for Negroes,) and also public slave-chains for the prisoners confined in them, and the discipline of these far exceeds in severity that of the Roman ergastula, or any other system of penal labour and imprisonment, perhaps, that has ever been used for the punishment of the worst convicts in Europe. * To these

* To justify this statement, it may be sufficient to cite the following description of the punishment, from a work called "A Short Journey in the West Indies," by Mr. Dallas, formerly of Jamaica, the ingenious author of another work, "The History of the Maroons," in which he zealously defends the slavery of the West Indies against a work of my own, "The Crisis of the Sugar Colonies."

"Runaways and Negroes that are found straying, and do not give an account of themselves, or cannot, from not knowing how to speak English, are taken up and put into the workhouse. In this situation their labour is supposed to be so much harder than is their common lot, that Negroes are often sent hither by their masters and mistresses as a punishment for the faults they commit; and according to the supposed heinousness of their guilt, the correction (that is, the torture) of the cattle-whip is superadded. These unhappy wretches (I have reckoned near a hundred linked to the same chain) are employed to dig and carry stones, remove rubbish, and to perform all the most fatiguing offices of the public. The chain, being fixed about the leader, is carried round the bodies of the followers, leaving a sufficient distance to walk, without treading on each other's heels, and to each it is secured by a padlock.

"As soon as they are thus yoked, within the walls of the workhouse, the gate is thrown open, and the poor animals are driven out by a Negro driver, attended by a white driver, both with cattle-whips in their hands. Sometimes the white driver rides on a mule.

"You may imagine that, in the great number of persons thus fastened to each other, without the least attention to the difference of age or of strength, it is not very probable that an equal pace among them can be kept up through the day, as they move about. They are set upon a brisk walk, almost approaching to a trot, and woe be to those whom fatigue first forces to flag:— the never-ceasing sound of the cattle-whip long keeps a regularity in the slight sinking curve of the intervening links of the chain, but, naturam expellas furca, tamen usque recurret,
workhouses and slave-chains, masters and mistresses send their Negroes for punishment at their discretion; and there is no distinction, as I understand, between the treatment of the slaves so sent, and those convicts who are condemned to the slave-chain by the magistrates for public crimes. *

" nature will return; the feebler will begin to pull upon the stronger, the "intervening links will lose their regular curve: here they become stretched "to their utmost, there they sink nearly to the ground; the weak add the "weight of their exhausted limbs to the strong, and the strong tread upon "the heels of the weak. This the drivers remedy, as much as possible, by "their cattle-whips, till nature, quite worn out, is at last driven back to "the workhouse."

It may be proper to notice, that when this passage was cited by the late Sir Samuel Romilly, in the House of Commons, a few years ago, the existence of any such establishment in Jamaica as the workhouse chain was disputed by an honourable member, who, though he had resided in the island, had never happened, like Mr. Dallas, to see it. To obviate some doubts which were naturally excited by this cause, a gentleman was desired to go to a coffee-house in the city where the Jamaica newspapers were taken in, and get any paper he could procure. He did so, and among other advertisements decisive of the fact in question, was the following: " Absconded from the workhouse, Billy, a Negro man, having been let out "of the chain for a cut on his foot: committed for life for stealing." — Jamaica Gazette, Dec. 17. 1814.

* In Dominica, where there is the same institution, a master lately carried this power of making the police the ministerial instrument of his vengeance to an extreme that furnishes a good commentary on its nature. He first prosecuted his slave capitally, on a charge of mutinous conduct, of which the court found him not guilty. To show his contempt for this decision, the master, though himself a Mulatto, had the poor fellow carried the next day to the public market-place, and there severely cart-whipped, avowedly for the same offence of which he had been acquitted; and then, as a further vengeance for the same pretended cause, sent him to the galley-gang, or galley-gang, as it is called in that island, to be worked in chains. He even refused to release the unfortunate slave from this punishment, when requested to do so by the chief justice of the colony; declaring that the man should continue in the galley-gang as long as a former master, his predilection for whom was his true offence, remained in the island; which was probably tantamount to a condemnation to the chain for life. After some time the Supreme Court interposed, not on account of the illegality of a master’s thus obliging the police to inflict a punishment worse than death, by his own private mandate, but on the ground of a depending suit in Chancery between the present and former master, in which, I presume, the title to the slave was in question; for the order of court is, " That the
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This institution, among others, might have precluded the boast of superiority to Roman law: for what are the public convicts on the workhouse chain, but servi peææ? and the slaves consigned to it by the master, but ergastuli? The chief differences are, that the Jamaica master is not, like the pater familias, a lawful Judge, except over his unfortunate slaves; and that there is the fearful addition of drivers and cart-whips, or as they are called in Jamaica cattle-whips, to the West Indian slave-chain.*

Jamaica, if I mistake not, was the first of the British colonies that adopted these terrible slave prisons, called workhouses, and the public or parochial slave-chains, which thirty years ago were unknown in the Leeward Islands, and, as

"provost marshal to release the said Negro man from his custody, to be "delivered over to the custody of the Honourable A. C. J., (the former "master), until the determination of a suit in Chancery between the said "I. B. L. B. (the present master) and the said A. C. J."

The chief justice, to his honour be it spoken, held the public flogging a contempt, and recommended a prosecution for it; but in vain; and this interposition of the Court produced a great clamour, as a dangerous interference with the lawful authority of masters. I believe that in consequence the case was brought officially to the cognizance of government; and, therefore, that the evidence of it may be found in the proper office. I would not otherwise cite it here, though on the best private authority.

* Of the driving system in general, I can find no trace in the Roman authors, even in respect of the ergastuli; and if these men had been driven to their labours by the whip, those humane writers who have condemned their chains and stigmata, would hardly have omitted to notice such an aggravation. It must also incidentally have appeared, in Columella, and the other Scriptorum de Re Rustica; whereas among the various details into which they enter, I can discover nothing that indicates any such method of enforcing even the penal labours of the criminal slaves. We read of monitors who attended the workmen, to superintend them in their different employments, and also prevent their escape; but there is no hint of any practice like driving, and much advice is given that seems incompatible with its use.

Let me not be understood to mean that stripes were not resorted to by the Roman master or his agents, for the punishment of idleness. It is probably essential, to the exaction of forced labour by prisoners or slaves, that some such means should be employed; but the reader, I trust, will be convinced, if he accompanies me into the second part of this work, that there is an immeasurable difference between the moral discipline of punishment for past indolence, and the brutal impulse of the driving lash.

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I believe, in all the Windward Islands, we then possessed; but now the bad example has been followed, at Antigua, St. Christopher, Grenada, Dominica, and Tobago, and perhaps in our other colonies. Their having been so long dispensed with, in most of our islands, is a pretty satisfactory proof that they cannot any where be necessary. Yet, I doubt not, that unless the assemblies are controled, these odious institutions will soon be, if not already, universal: for there is a wonderful propensity in these bodies to follow the lead in every innovation by which the slave is subjected to new legal oppressions, or the powers of the master enlarged. They are prone even to copy from foreigners for the same favourite purposes; though slow enough to adopt their improvements on the liberal and merciful side. In the present instance, Jamaica seems to have been indebted to her French neighbours at St. Domingo, before the avenging scourge fell upon them, both for the pattern of this modern institution, and for the practice of making it subservient to the master's private vengeance.*

* The French being used to see the slave-chain in their galleys, naturally enough resorted to that mode of punishment in their colonies; but with less excuse, permitted private masters to send their slaves to be worked with the public convicts, in the same penal and cruel mode. That this power was often used for oppressive and vindictive purposes, will easily be supposed; but it produced also fraudulent abuses, upon sordid and avaricious principles, which a person unacquainted with the feelings generated by colonial slavery would hardly anticipate, or, without good authority, believe. Planters, whose slaves from sickness or infirmity, had become expensive incumbrances, often sent them to the King's chain to be punished as delinquents, merely to deliver themselves from the charge of their support and of their medical relief.

I quote in proof of it, the following regulation of the intendant, Monsieur J. B. Guillemin de Vaire, (dated at Cape Francois, St. Domingo, May 20. 1790,) "Etant informé que plusieurs habitans (planters) pour éviter le payement des frais des maladies de leurs Negroes, les envoient dans les prisons de cette ville pour y être attachés à la chaine, sous le faux pretexte de correction, et étant nécessaire de détruire un abus aussi préjudiciable aux intérêts du Roi, nous defendons aux concierges des dites prisons, de recevoir à la chaine aucun esclave des habitans qu'il ne l’aït préalablement présenté au chirurgien de sa Majesté, &c. &c. (Loix et Constitutions des Colonies Francoises, par M. Moreau de Saint Mery, Tome vi. p. 19.)

The European reader may, perhaps, be surprised to find that such cruel frauds are here censured only as prejudicial to the interests of the King;
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This brief review might suffice to shew how little room the Jamaica legislators had for a boastful comparison with the opprobrious Roman slave-code, even though the state of the servi peneae and ergastuli was confounded with that of ordinary slaves. I should not, however, do justice to this part of my subject, if I were not to contrast the mildness of the Roman, with the dreadful severity of English colonial law, in the treatment of this class of men when fugitives from the penal service of the state.

I have already given some account of those many cruel and sanguinary acts of assembly, by which flight from the master has been treated as a public and capital crime. I have shewn that our colonial assemblies were unanimous in adopting that principle, though they varied from each other, and from themselves, at different periods, in its practical strictness or relaxation; and that even the recent meliorating laws have not wholly delivered them from this reproach; whereas at Rome, the civil magistrate was not authorised to punish this offence at all, but was directed merely to send the fugitives home to their masters; except in the case of desertion to a public enemy, where the crime was considered as combined with a species of treason.

But it is proper to notice in this place the striking contrast which will be found in those exactly parallel cases, the flight of the Roman convict from the mines or public works, and that of the colonial Negro from the workhouse or slave-chain, when judicially condemned to them. The former was sent back to his labours, and obliged to work double the time originally prescribed; or, if the original term amounted to ten years, he might be sent back to the same punishment for life, or condemned to severer labours, and a stricter mode of confinement.*

and that no punishment is appointed for the inhuman master; but the law was made in the West Indies; and the intendants and other colonial administrators were in general planters. St. Domingo would otherwise in all probability not have been lost to France.

* Digest, Lib. 48. Tit. 19. Sect. 8. It appears that there were three degrees of penal servitude and labour, very different in their nature and legal consequences from each other. The first and mildest was a condemnation to the public works, "in opus publicum," simply; and upon this the con-
Some British colonial law-givers have had stronger nerves. After placing the wretched negro in a state which it is impossible for patient human nature to endure, but from unremitting physical necessity, they have actually punished his flight from it with death: and this not by any obsolete or ancient law; for the institution itself is recent. An act which thus inhumanly avenges escapes from the slave-chain in Grenada, was passed so late as the year 1797.*

I will not detain the reader by extending further here this parallel between Pagan and Christian, Roman and British oppression. The ordinary slavery of the latter has been shown in former divisions of this work, and will be more fully

* "Be it enacted, &c. that all and every such slave or slaves who now are or hereafter may be sentenced to be banished from this island, or to be confined to hard labour in chains, for life, or for any shorter period, and who shall escape, break loose, or run away from the place of his, her, or their confinement, or who shall be absent for the space of forty-eight hours from the custody of the person having charge of him, her, or them, shall on conviction thereof be declared guilty of felony, and shall suffer death, or such other punishment as the magistrates present on the trial of such slave or slaves shall direct."—(Act of May 13, 1797; Papers, printed by order of 5th April, 1816. p. 66.)
shewn in the sequel, to be in many points more degrading and severe than that of Rome; though this far surpassed, in its cruelty, every other in the ancient world. We have now contemplated the penal slavery of the Romans in the same comparative view; and let us look at the summary result.

The Roman slave was branded. So is the slave of Jamaica.

The former was thus treated when condemned as a criminal by the public or domestic judge. The latter is branded without the imputation of a crime.

The Roman ergastuli, or convicts, were worked in irons. Unconvicted West Indian slaves are often worked in the same way. They are also still, I believe, in many of our colonies, as they very recently were in all, loaded with tormenting instruments, which Roman oppression never devised; such as neck-collars, with their projecting bars and hooks, and iron rings of a cumbrous weight, hammered closely round their ankles.

The servi paene were condemned to wear separate chains, the weight of which was proportioned in some measure to their crime. The West India gaol slaves are indiscriminately yoked together in considerable numbers by the neck, each supporting the nearest curves of a heavy chain, by which they are connected and worked together in a long line. No difference is made between the more and less criminal, the convicted and unconvicted, the man suffering under a judicial sentence, and the slave whose master's arbitrary mandate is the only warrant for placing him on the public chain.

But a far greater difference between the convicts in the Roman mines or works, and the negroes on the slave chain, is this: the former were not, the latter are, followed by drivers, urging them to their labour by the coercive and ever impending lash.

The Roman convict flying from his chain, was liable only to a longer or severer portion of penal servitude. The British fugitive is in the same case, some recent mitigations excepted, liable to be condemned to death.

The former was often delivered from the mines by imperial mercy, and when pardoned became free. The latter may indeed be pardoned, but returns to perpetual bondage.
Though I have been led thus fully to notice the penal slavery of the Romans, it is not my design to examine the state of convicts in other countries; because unless where they have been sold as slaves to individual masters, they belong not to our present subject; and I do not clearly find, that such has been their treatment in any country, Africa excepted. Some particular offenders among the ancient Saxons and other Germans were condemned to slavery; but formed, as I apprehend, no exception to the rule.*

SECTION IV.

SOURCES OF PRIVATE SLAVERY, PROPERLY SO CALLED.

Among modern and Christian nations, war has universally ceased to be a source of this terrible state of man. Conquerors no longer carry away, and sell the prisoners they make, or the inhabitants of a country they subdue; and it is a great temporal blessing which, as Mr. Gibbon confesses, we owe to the benignant influence of Christianity.† While the same cause has directly or indirectly produced the general enfranchisement, in most countries of Europe of the private slaves or bondmen, in which they all formerly abounded, it has universally, I believe, led to the abolition of every source of slavery, except that which is of the most difficult termination, servitude by birth. I am ignorant at least of any other cause than the hereditary condition, by force of which a man can now be held in slavery by his fellow-subject in any European country. I understand this to be the case even in Russia and Poland. In the latter country, indeed, or at least those portions of it which have devolved to Austria and Russia, it seems doubtful whether slavery now exists at all. "The authority of the seigneur over his vassals (says an English tra-

* Potgieser shews that incestuous persons, and those who profaned the Sabbath by working on it, were punished by loss of freedom; but in the former case it expressly appears, and I think may be inferred in all others of the same kind, that they were not sold to private masters; but like the servi panae, at Rome, and the modern galley-slaves, were employed solely in the service of the state. (Potgies. de Statu Servorum, Lib. 1, cap. 1.)

† Roman History, Vol. I. Chap. 3s.
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"veller) has been restrained by law. He does not now possess the right of inflicting corporal punishment; nor indeed are slaves now, as was formerly the case, attached to the glebe; so that their condition in some respects assimilates to that of the German peasant."* The author, I presume, means that the Polish peasant may now leave the estate, though born in servitude upon it; for the master's power of removing him from it would be no melioration of his lot. In this case, being exempted also from corporal punishment, he has apparently ceased to be a slave, in any proper meaning of that term.

As to the slavery which formerly existed in this island, it could legally emanate but from one source, the immemorial servile condition of all the paternal ancestors. So strictly was this rule held, that to prove a man born out of wedlock, was decisively, as I have before observed, to establish his freedom; because though the mother in that case might be ascertained, the father was not recognized as such by law.†

It may seem perhaps an exception to this rule, that if a man confessed himself to be the villein of A. B. in a Court of Record, he and his future posterity were from that time bound to serve A. B. and his heirs; and not permitted to contest the truth of the confession. But though it is possible that villeinage sometimes began in that manner, it could evidently only do so by collusion; and by an abuse of the spirit and intention of the law. From the solemn regard paid to all judgments of courts of record, for which our juridical system is remarkable, nothing could be averred contrary to a fact once established by such authority: and the strong natural presumption that no man would by falsehood renounce his own freedom and that of his posterity, gave in this case to the maxim a reasonable application in favour of the lord. The recorded confession, however, though conclusive in its effect, was not considered as the origin of a new, but the evidence

* Journal of a Tour in Germany, &c. by J. T. James, Esq. Murray, 1816, p. 520.
† Litt. Villeinage, Sect. 188.
of an existing slavery; and of a title arising not from contract, but from birth and hereditary prescription.*

The laws of Hindostan are here, as usual, more specific and diffuse, but not less liberal, than those of ancient Europe. They have distinguished no less than fifteen different ways in which the condition of dosh, the mild species of slavery which prevails in that country, may lawfully arise. They are for the most part, however, only diversities of slavery by voluntary contract; and distinguished from each other chiefly in respect of the different kinds of considerations which a freeman may receive for selling his liberty; distinctions apparently made for the sake of regulating, as I shall shew hereafter that those laws very nicely and equitably do, the important right of redemption. Birth and war are there, as they were in the ancient world, the only involuntary causes of bondage to a private master; if we except the "being found by chance," which I presume refers to the case of infant foundlings, brought up by the care, and at the expense, of some private person, who on that account becomes entitled to their service when they are of an age for labour. In the enumeration, one case only of penal loss of freedom is comprised. It is the punishment of a certain species of apostacy; but here, as in Europe, the penal state is not that of private slavery; the convict is not sold to any private master, but belongs to the magistrate; and, contrary to the rules of the Gentoo law in regard to every other source of bondage, he can never redeem himself, or be enfranchised.†

All the slaves in our colonies are supposed to have contracted their servile condition, either originally, or derivatively, through their ancestors, by force of the laws or customs of Africa. May our moral responsibility for titles so acquired be in future matter only of retrospective consideration. No nation was ever stained with such infamy and guilt as England would incur, if, after all she has done, confessed, and proclaimed before the civilized world, she should relapse into the slave

* See Mr. Hargrave's note on Coke Litt. 117. b. note, 163.
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trade; or should, by a fatal complaisance to her colonial assemblies, connive at its clandestine prosecution. But unless parliament shall at length perform its duty to this unfortunate race, by doing, what it is in vain to expect from the assemblies, establishing an effectual registry of slaves, in every colony, and improving their condition by really operative laws, even this foul apostacy, unparalleled though it would be in the records of national crimes, is not, in my sincere opinion, beyond the range of probability. Nor am I singular in this opinion. That supplies from Africa will be always easily obtained, when wanted, is plainly the full expectation of the planters and the assemblies. They have expressly avowed it heretofore, as I have elsewhere fully shewn*; and that they still cherish this expectation is so manifest from their conduct, that those alone who will not take the trouble of considering the plain import of undisputed facts, can disbelieve it. It may not therefore be useless, and cannot be uninteresting, to advert more particularly than I have already done, to the customary laws of that uncivilized continent, as to the sources of slavery which it supplies.

I have already stated that African slavery, properly so called, and the only slavery which subjects a man to be exiled or sold, arises from four general causes, insolvency, criminal judgments, kidnapping, and captivity in war.† But I would here distinguish only such causes of the state as the laws of that country recognize and allow; and kidnapping, though one of the most copious sources of the trade, is not regarded in Africa as a legitimate mode of depriving men of their freedom. On the contrary, the captive may be reclaimed if he can be found; and the injury done to him is an ordinary subject of their palavers (forensic or diplomatic controversies) and wars.

On the other hand, it may be contended, perhaps, that I ought to add to the legal causes of African slavery here enumerated, voluntary contract; for it has been asserted, that free natives of that country, sometimes under the pressure of a general famine, sell themselves to obtain food. The evidence however upon which the late Mr. Park, the most

* Letters to Mr. Wilberforce on the Register Bill.
† Supra, p. 70, 71., and see App. No. 2.
credible among the assertors of this fact, chiefly relies, namely, the information of a white slave-trader resident in the country *, is not very satisfactory. The fact will appear liable to much doubt, when it is remarked, that of all the many slave-traders brought forward as witnesses in defence of their own occupation before parliament and the privy council, not one asserted that he himself ever acquired a slave upon such a consideration as this; or that any negro on the coast had ever been known to sell himself for any consideration whatever. This is the more observable, because if opportunities are often found by a hungry African to relieve his necessities in a time of famine by the sacrifice of his freedom, it seems probable that such cases must occur upon or near the coast, rather than in the interior; for it is in the maritime border that an importer of provisions, ready to avail himself of the occasion, is most likely to be found; and it is difficult to suppose that a time of famine in any country remote from the coast, is a season in which its inhabitants would choose to increase by purchase the number of their vendible slaves, whom they must long feed in a state of inactive confinement.

It is the easier to fall into mistakes, or be led into them by the misrepresentations of others, as to the origin of slavery in Africa, because the state has been generally confounded, as I have before had occasion to shew, with that of the grumetta or vassal†; and by no writer is such inaccuracy more frequently exhibited than by Mr. Park, or his West Indian editor. In the present case it is surely probable that vassalage, rather than slavery, is the state to which free Africans may have sometimes consented to reduce themselves or their children for food. They might, if urged by hunger, naturally enough agree to exchange freedom for a state hardly at all distinguishable from it in point of comfort or security, by becoming grumettas, or life-servants, to some chief, who is able and willing, on that condition, to give them employment and relief. But it is by no means so likely that they should agree to fall at once into the state of slavery properly so called, which always implies in Africa being im-

* Travels, p. 295.
† Supra, p. 70., and App. No. 2.
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mediately put in chains, and kept in them, or shut up in a prison, till the hour of eternal exile arrives. *

Further reasons might be given for questioning whether vendible slavery ever arises in that country, even in the urgent case of famine, from the voluntary contract of a free person submitting to that condition; but I will not reason more at large against assertions that may, without prejudice to any of the conclusions which I wish to establish, be admitted.

It is further alleged, and is admitted in the enumeration here given, that men sometimes become slaves in Africa through the insolvency of the master to whom they were grumettas or vassals; being seized and sold by his creditors, or given in pawn by him, as securities for a debt, and afterwards forfeited by non-payment. But it seems to be very doubtful whether the law of Africa be not in such cases much misconceived and abused. The seizing the grumetta, or detaining the pledge, are probably, according to the true intent of that law, and according also to its practice in the interior country, only coercive remedies to compel the payment of the debt, and such as give no right to alter by sale the condition of a free man or grumetta when so seized or detained; much less to convey him immediately to a distant and foreign land out of the reach of redemption.

That such practices are a disputable part of the law of the coast, or at least a very harsh application of it, seems to have been felt by such masters of slave-ships as spoke of the pawns or slaves seized for debt in their evidence before the Privy Council and Parliament; for those witnesses never chose to admit, but anxiously denied, that they themselves had obtained slaves by such means, though they scrupled not to avow their having filled their ships by purchases under the other, and no less objectional titles, which the laws of the country really support. †

On the whole, then, though I have distinguished four sources of vendible slavery in Africa, I conceive it to be pro-

* Id.
† See especially the evidence of Captain Hume at the bar of the House of Lords on Mr. Henry Thornton's Abolition Bill of 1799.
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It is probable that two of them only, viz. captivity in war, and convictions for imputed crimes, are such as can be strictly said to be legal, according to the customary law of that unfortunate country, when unmixed with the abuses introduced by European traders; and that the other modes of slave-making for exportation, actually in use, would be held tortious and void even by African Judges, if the merits could be fairly examined before their barbarous tribunals.

SECTION V.

OF THE SOURCES OF SLAVERY IN THE BRITISH COLONIES.

Let us now place in comparison with these principles of the slave laws of other countries, ancient and modern, barbarous and civilized, as to the origin of the state, those maxims which are universally received and acted upon as legitimate in the British West Indies.

This very important branch of our colonial slave law, stands as we have seen wholly on the authority of custom. In no island has any Act of Assembly expressly declared in what manner slavery shall originate; or what title of the master shall, or shall not be valid, as between him and the party whom he holds and treats as his bondman. But usage, and popular opinion received in the colonial courts as law, have established these comprehensive maxims, "that no white person can by any means whatever be reduced to slavery; and that every man, woman, and child, whose skin is black, or whose mother, grandmother, or great-grandmother, was of that complexion, shall be presumed to be a slave, unless the contrary can be proved." *

If the colonial legislatures had expressly adopted all the barbarous usages or laws of every nation in Africa, by force of which men may there be reduced to slavery, such an act would no doubt have called forth the royal negative. Even the presumption of law here mentioned, might have startled the

* For proofs that the presumption of law in all our colonies is as here stated, notwithstanding some bold but inconsistent recent pretences to the contrary, see my second letter to Mr. Wilberforce in Defence of the Register Bill, p. 35 to 73, and the authorities there cited, especially Mr. Stoke's Constitution of the American Colonies, p. 442.
advisers of the crown, had it been made a subject of express enactment. But tacitly received as it has been by them all, and implicitly allowed by their courts, it has practically amounted not only to an adoption of all the legal modes of African slave-making, but much more: it has legalized in the West Indies titles brought from the slave coast, which in Africa itself would have been considered as illegal and void. Such at least was clearly the effect of this general presumption of law, when operating in connection with that rule of evidence, which excludes the testimony of slaves; for it was by the evidence of African negroes alone that such titles could be impeached.

The consequence of these rules, taken together, was a total indifference in colonial purchasers to the means by which the poor Africans were acquired on the coast. Neither by the masters of slave-ships, nor by the purchasers of newly imported negroes, was the maxim *caveat emptor* supposed either in law or conscience to apply. The former freely admitted that they asked no questions of the sellers; though many of them at the same time confessed that slaves are often made in Africa by means which they themselves considered illegal and unjust. *

* Q. Whether you know how the slaves are procured that you send, particularly from that district?—A. They are bought from the natives.

Q. Do you know how they are in fact made slaves; or are they taken without asking any questions?—A. They are property in that neighbourhood, as they are in the West Indies.

Q. Are any directions given to your captains to make any particular inquiry upon that subject? —A. None.

Q. In point of fact, are any questions asked by your captains, or by your factors, to your knowledge?—A. I do not know.

Q. Are all taken that are offered, provided they are thought worth purchasing?—A. I believe so.

(Evidence of John Anderson, Esq. in the printed evidence taken at the bar of the House of Lords in 1799, p. 14, 15.)

Q. You spoke of having purchased in the course of these four voyages, many hundred slaves at Angola; about three hundred. State, if you can, by what means any one of those hundreds of people became a slave?—A. I cannot say what makes them slaves.

Q. Are you to be understood, that of all the slaves whom you carried
If the feelings or opinions of West India planters on the point should be imagined to have been different, I need only refer to the authority and the practice of the late Mr. Bryan Edwards. That gentleman, without any intention to display, though certainly with no disposition to conceal, a way of thinking on this subject which is quite universal in the colonies, informs us, that he took occasion to satisfy his curiosity as to the ordinary sources of slavery in Africa, by enquiring individually of many negroes who had been formerly purchased by himself in the Guinea yards of Jamaica, how they respectively became slaves. It is evident therefore that he had not thought it necessary to satisfy his conscience on that head before he became the purchaser: and though in the course of his inquiries he found that some of them had been kidnapped, he does not at all insinuate that he felt any scruple on that account in retaining them and their offspring in a state of slavery. Mr. Edwards' sentiments on these subjects will not be thought an unfavourable specimen of those which generally prevail in the colonies; and yet his readers will clearly perceive that he had no consciousness of anything in the case that required an apology. It plainly did not occur to him that any man could possibly entertain a doubt as to the moral validity of his title.*

It follows from these remarks, that the law of the West Indies may fairly be said to recognise as valid every mode of slave-making practised in Africa, whether legal or not in that country. Or I am willing, if desired for the credit of our colonies, to put this part of their law in another view; and to say that it regards a sale in Africa as a lawful conversion of a free man into a slave. The coast of that country is a mar-

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ket overt for human liberty; and the title of the true owner may be barred in it, though he is present and dissenting from the bargain, by the evidence of his chain and his despair.

It is true that the abolition acts, as far as they are effectual, have now rendered this conversion of African wrong into British colonial right, of much less moment to the future subjects of it than before; because the purchase of a slave in Africa, or his expatriation by a British subject, however good the title of the seller in that country may be, now works a forfeiture of the property, and entitles the African to freedom. It is nevertheless an evil of no small importance, that this peculiar reproach of our colonial law the presumptio contra libertatem remains unaltered. It is a presumption that not only sanctions all the wrongful slavery imposed in Africa in respect of negroes, or the descendants of negroes, who were imported before the abolition (which convenience may perhaps be thought to require), but secures to the contraband trader in human flesh, and to those who buy from him, the profitable fruits of their crimes. As soon as the easy work of clandestine importation into the British islands has been accomplished, the property is safe. * The rule, therefore, if defensible formerly, clearly should not have been permitted to survive the African slave trade; or should at most have been

* See a Report of the African Institution on the reasons for establishing a Registry of Slaves in the British Colonies; Butterworth and Hatchard, 1815. The author ought not to refer to that Report without acknowledging that he is responsible for any errors in fact or opinion that may be contained in it; having drawn it up as Chairman of a Committee of the Institution appointed for that purpose.—See also the author's second letter to Mr. Wilberforce, in defence of the Register Bill, printed for the same booksellers in 1816; and a Report of the Jamaica Assembly, referred to and discussed in the latter.

Of course the two former publications are not cited as authorities; but as much controversy has arisen relative to the extent of the rule here mentioned, and its practical consequences, it may be right to refer such readers as may wish for further information on the subject to those arguments in which it is fully discussed. The letter also contains much evidence in support of the facts here alleged; but being deduced for the most part from the Jamaica Report, by a close examination and comparison of its adverse and artful statements, it is not capable of being inserted here in a form at once intelligible and compendious.
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retained in respect only of such negroes as were actually within the British colonies at the time of the cessation of the trade.

The continuance of this odious and dangerous presumption now, cannot in any case be necessary for the protection of a lawful title; because slavery can never hereafter legally and rightfully originate in our colonies, except by the being born of a female slave; a fact which easily may, and ought to be, ascertained by means of a public registry. I say legally and rightfully; because there remains another source of slavery there created by positive law; but indirectly, and through which the state can never originate, but at the expense of justice and truth.

By various acts of Assembly in different islands, unknown negroes and mulattoes, and persons of that unfortunate race who have committed or are suspected of any offence against the police, are liable to be apprehended and kept in gaol, without even the warrant of a magistrate; and unless they are claimed within a limited time by some owner, who can prove them to be his property, or they themselves can produce legal evidence of their freedom, they are publicly sold by the Provost Marshal; whose bill of sale is a valid and unimpeachable title.

It is plain that by such proceedings free men may easily be converted into slaves.*

Let it be supposed, for instance, that a free-born creole negro is taken up as a supposed fugitive slave; and that though he publicly asserts his freedom, he is not able to prove it on the spot, and within the limited time; a predicament, in which, if a stranger and at a great distance from the island where he was born, he is very likely to be found; in this case, he must necessarily be sold as a slave; and the purchaser will, under the law of the island, have a good title to hold him as such for life.

* The Acts in general do not notice the case of a claim of freedom; but in all of them it is virtually, and in some of them expressly included. Some of the Acts noticing that case, enact, in express terms, that if the prisoner cannot produce satisfactory proof of his freedom, he shall be sold.
Still more likely is such cruel oppression to be the lot of poor ignorant Africans, when imported contrary to the abolition laws, or by any other means entitled to their freedom.

That free negroes are in fact often deprived of their liberty by proceedings under these unjust and tyrannical laws, there is abundant reason to believe.*

It may be supposed, perhaps, that as the colonies have borrowed copiously from the Roman law in its worst era, voluntary contract may be another of their legitimate sources of slavery; but the insular legislatures having prudently abstained from defining the means by which the state may originate, custom only can be resorted to for the rules of their law on this subject. That the custom would have embraced this cause of slavery, if cases of such contract had occurred, no man can doubt; but it has not to my knowledge been alleged that a contract to become a slave, has ever been made in any part of the new world, where this modern bondage exists. Some apologists of the colonial system have alleged that negroes have been known to remain in slavery by choice; and such assertions are safely made; for what slave would venture to contradict them; but that among the multitudes of free negroes and mulattoes in our colonies, a single individual was ever bribed by avarice, or tempted by want, to contract for submission to that dreadful state there called slavery, has not, I believe, ever been pretended. In Rome, such contracts were common, while allowed by law; and not less so among most nations of Europe during

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* See the Jamaica and other West India Gazettes. It is rare to find one of the former in which there is not advertisements of the names and descriptions of negroes detained in different prisons of the island, and to be sold under these laws, upon suspicion of being run-away slaves. A considerable proportion of them will also be found to have no known masters, and to allege that they are free persons; and I have seen such advertisements in which it has been added, that the man alleged himself to have served in a specified black regiment, disbanded in the West Indies. Of course such a fact could have been easily investigated by the police, though not by the unfortunate prisoner himself; and if true, it was decisive of his freedom; and yet in this, as in all other cases, the advertisement stated that he was to be sold at an early period, unless claimed by an owner, or proved by sufficient evidence to be free.
the middle ages *; but the cruel and brutal bondage of our
plantations is of a very different nature from any state which
the most wretched and sordid of mankind ever willingly con-
sented to assume.

It is correctly true then, that the only now legitimate
source of slavery in the British West Indies, is the being
born of a female slave, in the same or some other colony
under His Majesty's dominion. But it is equally true that
men born free, or enfranchised, may be still easily reduced to
slavery there, by fraud or violence, without the possibility of
obtaining legal relief; and that the law itself may be made
an instrument of the wrong. The case cannot be otherwise
while black men are presumed in law to be slaves, while the
same presumption precludes their testimony, and while they
are liable to be dealt with and sold as slaves, though no man
asserts against them the rights of a master.

In all these points, West Indian oppression stands alone,
with a cruel and opprobrious singularity. No where else has
the presumption of law been opposed to freedom; but every-
where the direct reverse. No where else has slavery been
adjudged against any man, without the establishment of a
master's title.

Under our own law of villeinage, for instance, it could not
be alleged against a man that he was a villein bondman,
without also stating to whom in particular he belonged; and
unless the title of the asserted master could be proved, the
claim of liberty was established. So under the Roman and
German law, the want of a known master, was one among
the various causes by which a man might lawfully emerge
from slavery into freedom. This virtual enfranchisement
had place, even when uncertainty as to the person of the
master raised no presumption whatever against the servile
condition, as when the successor or representative of a de-
ceased master was unknown.†

I have said that the assemblies, while leaving the sources of

† Ignoratione successoris, ut si dominus moriatur, nec in alium jus suum
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the condition undefined, have, by the presumption against freedom, and by the police acts together, virtually sanctioned every source of slavery to which private fraud or violence may resort. But this is an inadequate view of the case. They have invented a cause of slavery, additional to all those which lawgivers, civil or barbarous, have elsewhere recognized, or rapacious avarice explored; namely, the having a black skin without a deed of manumission. They have thus contrived to effect, what human despotism never attempted or imagined before. They have attached slavery in the abstract to a large portion of the human species; so that it is no longer a particular private relation, requiring the correlative of master, but a quality inherent to the blood of that unfortunate race, and redounding to the benefit of the first man-stealer who reduces it into possession. The negro himself can gain no title, by occupancy or prescription, to the dominion of his own muscles and sinews; but when no other occupant or claimant appears, his inherent slavery devolves to the state, and is consigned to the fiscal hammer.

It is fair, however, to admit that legislators and judges could no where else have adopted, with safety to themselves, those harsh maxims of West Indian law.

I have before observed, that the slavery of negroes in the new world has been rendered severe beyond example, by the effects of those corporeal peculiarities which so broadly distinguish them from their masters; and we have here a new mischief, flowing from the same fatal source. Not only are the miseries of slavery aggravated by this distinction; but it has enabled legislative oppression to facilitate, without danger to the privileged class, the wrongful imposition of that state. If the lawgivers or courts of other countries, had wished to extend servitude, rather than to favour freedom, and, for that end, to place the presumption of law, and the onus probandi on the illiberal side, the cruel innovation could not have been made without danger to themselves and their posterity, and to every free man in the state.

The colonial assemblies and courts, on the contrary, when they made a black or tawny skin a presumption of bondage, threw a convenient veil over the enormities of the slave trade,
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and indulged their proud contempt of the African race, without danger to any one whose censure they feared, or whose rights they deemed worth protecting. Free negroes and mulattoes might probably suffer from it; but these have no share in the work of legislation, or in electing the assemblies; and form an odious middle class, which it has been the uniform, though preposterous policy of the British colonies, to discourage and reduce.

While that presumption of law, and the rule of evidence which excludes servile evidence, remain, slavery \textit{in fact}, within the colonies, from whatever source it may originate, must, for the most part, be slavery \textit{in law}. The cases must be extremely rare in which men labouring under all the civil disabilities we have seen, can find means, not only to implicate the master within whose grasp they lie, but to establish against him, by legal evidence, the facts which give them a title to freedom; for the same presumption, it should be remembered, encounters the unfortunate negro at the threshold of every jurisdiction to which he can apply: till his freedom is proved, he has no legal personality; and consequently no right to be heard as a complainant or a witness; and must remain under personal duress, either by the act of the alleged master, or that of the police.

I shall perhaps hereafter have to consider more fully the effects of such injustice, as affording facilities to clandestine slave trade. Meantime it should be remarked, that no part of the colonial code is more incapable of any constitutional defence. The assemblies found no pattern for it, as has been seen, in the ancient slavery of England; nor even in their ordinary magazines for precedents of barbarous slave laws, the servile code of Rome. On the contrary, the presumption of law in both those countries was uniformly in favour of freedom.

Upon what principle then can it be maintained, that the continuance of this oppression is reconcilable to the British constitution, as it ought to be in force in our colonies?

Parliament indeed long countenanced the slave trade; and hence it has been often said, and always assumed, by the colonial party, that parliament has also sanctioned that op-
probrious state of man called slavery in the western world. Be it so, for the argument's sake; though no proposition is more open to dispute. But if parliament, by allowing the trade, allowed also the unparalleled cruelty and degradation of the state into which the victims of it were carried, the consequence can apply only to Africans lawfully imported; or at most to them and their posterity. The British legislature has been no party to those iniquitous maxims and rules of evidence, by means of which free men, living under the British crown, may, without the imputation of a crime, be sold into perpetual bondage.

Let it be supposed even that the presumption in question was necessary, while the slave trade was legal, as essential to the security of titles bought in the African market. If so, that necessity ceased with the trade itself. While the trade continued, it could only justify exempting the master from the duty of tracing his title further back than the importation from the African coast: but now, at least, he should be bound to prove a possession of the slave, or of his female ancestors, by himself or some other British subject, anterior to the period when importation from foreign countries ceased to be lawful. From that time, Parliament has ceased to sanction, expressly or impliedly, directly or indirectly, the origination of slavery, from any source extrinsic to the colonies themselves, or by any means which it can be difficult for the owner to verify. The state can now lawfully attach upon new individuals by birth alone; and that is a title which a well-regulated public register easily might, and most clearly ought, to attest.

How then can it be hereafter reconciled with those constitutional boundaries which are prescribed to the power of the assemblies, that all men of a certain complexion when found within the King's dominions in the West Indies shall be presumed in law to be slaves? This is a question of infinite importance to the security of the abolition itself, which well deserves, and cannot too soon obtain, the serious consideration of parliament.
It was proposed next to consider the state of slavery in our colonies, in respect of its dissolution.

The only means of this as to the individual slave, are direct enfranchisement or death. His posterity, as I have already shown, may be delivered from the state by such mixtures of their blood, as will wash out the physical by a moral contamination; but the slave himself must be manumitted, or die in his chains.

If a state, like this, can admit of any consolation, except in the prospect of a life to come, it must be found in the hope of one day obtaining freedom. Compared to that grand cordial, all the indulgences of the most humane master can have little interest or value. When I imagine myself in the gloomy and solitary dungeon of Baron Trenck, or some other prisoner of state, destined to be immured for life; and suppose that, like him, I am labouring by years of patient perseverance to work my way, by a minute daily progress in excavation, to a future escape; I feel that, distant though the event must be, and highly improbable as would be my ultimate success, the effort and the hope would be my best human support. I should turn from the most comfortable meal which the compassion of my keeper had provided; I should lay down even the book, which he had mercifully left to recruit my weary mind; and find more interest by far in scraping away the modicum of earth, which I was able daily to conceal, and send by stealth out of my dungeon. I should frequently examine with satisfaction the progress of my work; compare what had already been done with what remained to do; number the months, and weeks, and days, which would be necessary to complete it; and anticipate those delights of free air, sun-shine, exercise, and society, which the consummation of my labours would bestow. Impatience and dejection would indeed often return; but after paroxysms of these, hope would again come to soothe me and animate my efforts. My tyrant would lose much of his purpose, for he would not break my heart, unless by finding out my secret labours, and

Enfranchisement.
Enfranchisement.

preventing their resumption, he should shut out the ray of hope which had cheered me, and plunge me in the darkness of despair.

Such is the value of possible, but far more that of potential liberty, to the slave. What cruelty then can exceed the total privation of this hope; or even its wanton discouragement?

But it is not more cruel than unwise. The hopes and fears of man are the pledges that he gives to society for his conduct. Without these, he cannot be stimulated to the discharge of social duties; or deterred from the most pernicious crimes. But the slave, if shut out from the chance of enfranchisement, has so little to hope or fear in this life, that no human sanctions can give him adequate motives for obedience to the government or the laws. He sees in the civil authorities, the abettors only of his master's despotism, and the rivets of his galling chain. In the same degree that he desires liberty, he must hate the government under which he lives; and can hope only in a revolution, the possible improvement of his state.

It is true indeed that civil disaffection, and a dangerous propensity to revolt, are generally inseparable in some degree from the mischievous and odious institution of private slavery. The community that permits and maintains such a state, places under its own foundation a mine, the explosion of which is a calamity not less probable than just.

But the danger is materially lessened by the frequency and facility of enfranchisement. Though that inestimable prize will be the lot comparatively of a few, the hope of future freedom will influence the many; and, what is of vast importance, will be the most influential with those, who being, from their superior intelligence and energy, the most likely to obtain it, are, from the same causes, likely to give the lead to their comrades, in all cases, whether of obedient or mutinous conduct.

These principles, though self-evidently true, do not rest for their authority upon theory alone. They are confirmed by experience. The most hopeless slavery has always been the most dangerous to the state.

In England, where enfranchisement was the most copious and rapid, till liberty at length became universal, I recollect
no instance on record of a servile insurrection. In the
Spanish colonies, where it has been next in extent, such
calamities, if they have ever occurred, have been extremely
rare; and we have recently seen that all the efforts of enfu-
riated parties have failed on the continent of South America
to excite the slaves to revolt against their immediate masters;
and that in Cuba, where they most abound, there has been a
perfect internal calm, in spite of the hurricanes around them.
In the colonies of Holland and Great Britain, on the contrary,
where manumissions are the scarcest, insurrections have been
peculiarly frequent.

But the most interesting view of individual enfranchisement
is the tendency which it has to terminate, in the safest and
happiest way, the cruel and odious institution out of which it
grows.

Whether the slavery of our colonies be a great national
crime or not, this I may at least assume, that it is a deplorable
evil, which no wise or good man can behold without an ardent
wish for its termination. But the cure, to be safe, should be
gradual; and though progressive meliorations by law of the
condition and treatment of the servile class at large, certainly
ought to be made, they are, it must be admitted, of rather
difficult execution. While the present vast disproportions
in point of numbers between the slaves and the free colonists
exist, and while the colonies are governed as at present, those
legal improvements could not perhaps be carried to perfection
without some political dangers. When advanced so far that
the civil distinction between slavery and freedom began to be
doubtful or small, their progress perhaps would be accelerated
or stopped by dangerous convulsions: at least there would be
that danger in colonies where political and legislative authority
is lodged in a petty interior assembly, composed of and
elected by the white people alone.

The best mode of gradation consequently is that which
progressively reduces the comparative number of the slaves, and
increases proportionably that of the free population, by means
of individual manumissions; though this happy progress
should certainly be accompanied, and kept pace with, by
meliorations of the state itself.

Here again history may be instructively consulted.
The reformation of the servile code of Rome, was attended with no civil disorders; because manumissions, through the benign influence of Christianity, became so copious soon after that reformation commenced, that the slaves speedily ceased to bear a dangerous proportion in number to the free citizens and libertines of the empire.

Our own country affords a still more impressive example. The manorial villeins, indeed, for the most part, were raised into copyholders and free peasants, by almost imperceptible degrees; and through a change of manners, rather than of laws. But even among these, individual manumission, whether by voluntary act on the part of the lord, or by the humane constructions of law, was a most powerful concurrent cause; and as to the villeins in gross, or personal slaves, I am aware of no melioration of their state by force of law, until by simple manumissions, actual or constructive, that condition of men ceased to exist. If in the last case of villeinage we have on record, which was in the fifteenth year of James the first, the claim of the master had been allowed, the villein would have been liable in law to the same slavery which existed from the time of the Norman conquest.

Voluntary individual enfranchisements, then, are means that may progressively annihilate this curse and reproach of any people in the most innoxious manner; and with such happy consequences, though perhaps not always with a direct view to them, the legislatures of all countries in which slavery has existed (the Assemblies of the English-Colonies in our own days excepted) have much favoured the conversion, by the act of the master, and by other means, of slaves into free men.

SECTION VII.

OF THE DIFFERENT MODES OF ENFRANCHISEMENT.

Enfranchisement, or the dissolution of the state of slavery, may be conveniently distinguished into three different modes or kinds: 1st, Redemption; 2d, Manumission; 3d, Enfranchisement by public authority.
1. OF REDEMPTION.

The redemption of a slave is distinguishable in its cause, though not in its effect, from a manumission. When indeed the redemption is made by an agreement, voluntary on the part of the master, and immediately carried into effect, in consideration of a price paid by the slave, or by a third person on his behalf, it differs from a manumission in name, rather than in substance; for it is not essential to the character of the latter that it should be gratuitous.

I mean, therefore, by "redemption," the dissolution of slavery by force of a condition previously annexed to it for the benefit of the slave, the performance of which, on his part or behalf, intitles him to his freedom by law, independently of the master's will.

Slavery has not everywhere been redeemable. It is almost needless therefore to say, that there is no such mitigation of the state in the British Colonies, where it rarely differs, except on the side of severity, from the worst precedents that human oppression has furnished in any age or country.

It is there, not only hereditary and perpetual, as we have already seen, but unconditional, and not liable to redemption by force of law at any period, or at any price. Without the master's consent that terrible relation can never be dissolved.

We can consequently in this point have no comparison of modes or degrees with the provisions of foreign laws. Under the interesting title of redemption, the slave codes of our colonies are perfect blanks. Yet it is not unimportant to shew what the laws of other countries, ancient and modern, have ordained on this interesting subject.

At Athens, the slave, when possessed of property enough to redeem himself, could, by paying the value of his servitude, compel the master to accept it as the price of his enfranchisement.*

I find no express recognition of such a right in the servile laws of Rome; and apprehend that the master there was not strictly compellable to allow of a redemption. Yet the practice of permitting slaves to purchase their freedom for money, was, as every classical reader knows, extremely common; and

* Potter's Grec. Antiq. vol. i. book i. cap. 10.
in many of the allusions to it, the concurrence of the master seems to be regarded as a matter of course, when the price of the redemption could be found.* It is probable, therefore, that manners, which often well supply the place of laws, had imposed upon the master an honorary obligation not to refuse to his slave the inestimable benefit of manumission, when a fair equivalent for the value of the servitude was offered.

It is to the credit both of the Roman master and the Roman lawyers, that the price of such redemptions was generally paid out of the slave's peculium; and yet the contract between him and his master in such cases was held by the courts to be founded on valuable consideration, and enforced against the manumittor and his representatives by law. That the slaves were often rich enough to purchase their freedom with their own money, proves at once the liberality of their treatment as to allowances of food and clothing, their savings out of which were the ordinary means of acquiring the peculium †, and the delicacy with which their imperfect right to that property was respected. The judges, on the other hand, humanely disregarded obvious technical objections to the contract, arising both from the slave's personal incapacity, and the want of valuable consideration. Though in strict legal theory the peculium belonged to the master, and therefore to pay him a part of this, was only putting him in possession of what was previously his own; yet for the special purpose of sustaining redemptions, the slave's peculium was regarded as his own property, and not that of the master. ‡ The mode of the transaction was a sale by the latter to a third person, "to the intent that the slave should be manumitted," and the trust was enforced by law.

By these means the facility of obtaining freedom was so great, that, according to Cicero, the sober and industrious slaves, who became such by captivity in war, seldom remained in servitude above six years. § Such enfranchise-

† Peculium suum, quod comparaverunt ventre fraudato, pro capite numerant. Seneca Epist. 80.
‡ "Conniventibus oculis (says Ulpian) credendum est suis nummis, eum a redemptum." Dig. lib. xl. tit. 1. 3, 4.
§ Phil. viii. 11.
The terms, however, seem not to have been strictly of the nature of redemption, as I have defined the term, though generally so called in the books of the civil law; but rather one of the multiform modes of voluntary enfranchisement which that law distinguished and allowed.

Redemption, in the stricter sense, is a right which has belonged to the condition of slavery in certain cases, by the laws of most countries in which that condition has prevailed.

Though it was an early effect of the adoption of Christianity among the antient German nations, that captivity in war was no longer a legitimate cause of slavery in respect of Christian captives, when their conquerors were of the same religion, yet when free men fell into the hands of pagan enemies, and were redeemed or purchased by Christians, they were liable to be held in slavery by the benefactor; but only until the price of their redemption was repaid. *

The case also of those who, from famine or other necessity, sold themselves or their children as bondmen, was, by the same laws, equitably and humanely provided for. A right of redemption was given, on repayment to the master of the price he had paid, with an addition of one fifth part. †

"It was thought," says the learned author to whom I refer, "unworthy of a civilised people, and of the Christian name, " that those who, from a pressing necessity, sold themselves " into slavery, should lose their liberty for ever."

Civilized and Christian Englishmen of the nineteenth century, have been of a different opinion. They have thought it an impregnable defence of perpetual hereditary and irredeem-

* Potgies. lib. iii. cap. 15. He quotes the Capitulary of Charles the Bald, king of France, anno 864. "De his qui liberi a paganis capti fuerint, si " aliquis eos redemerit, ipsi qui redempti sunt procurent, ut tantum pretium " redemptori suo donent, sicut ab eo redempti fuerunt, et in sua libertate " permancant."

An exception is made as to captives redeemed by the church; which were to be enfranchised without any ransom at all.

† Same authorities. "Hic ponere necessarium duximus, in quo dict, ut " quicumque filios suos (quod et deliberis hominibus qui se vendunt observari " volumus) qualibet necessitate, seu famis tempore, vendiderint ipsa neces- " sitate compulsi, emptor si quinque solidos emit sex recipiet, si decem " duodecim solidos similiter recipiat: aut si amplius, secundum suprascriptam " rationem augmentum pretii consequatur."
Redemption.

able slavery in the West Indies, that Africans are alleged (though upon doubtful authority) sometimes to have sold themselves or their children upon the pressure of a general famine. *

The injustice and inhumanity of deriving from this pitiable source of slavery an irredeemable title to the unfortunate self-devoted bondman and his posterity, are so manifest, that it is not strange, though curious, to find a pretty close correspondence on this subject, between the laws of Europe in the ninth century, and those of Hindostan.

If a Gentoo becomes a slave, in consideration of his being fed, and thereby having his life preserved during a famine, he is entitled to redeem himself on payment to his master of the value of the food he received in that time of necessity, with the addition of two head of cattle.†

Nor is this the only case in which the ancient institutions of that country have annexed to the very mild species of slavery which they permit, the important right of redemption. They have, on the contrary, nicely regulated this right, and with much apparent equity, with reference to the various different origins of the state itself; of which they have distinguished no less than fifteen. The terms of redemption respectively applicable to nine of them are expressly and carefully defined.

The Mookhud, for instance, or slave who consented to become such to satisfy the claims of a creditor, or to obtain money for the discharge of what he owed to others, is intitled to his freedom on payment of the debt; though if he had sold his freedom for money, without any such meritorious or urgent motive, he could not have redeemed himself without the master's consent.

The man who sells himself in consideration of the master's engaging to provide him with a subsistence, may obtain his freedom merely by renouncing that subsistence for the future. Nor is the powerful motive of love treated with less indulgence; for it seems that attachment to a female slave sometimes induces the Gentoo to submit to the condition of Doss, or

* Defence of the Slave Trade on the Grounds of Humanity, &c.
† Halhed's Code of Gentoo Laws, chap. viii. sec. 1. and 2.
Of the Different Modes of Enfranchisement.

slave, for her sake; and in this case, he may regain his liberty by merely renouncing the object of his passion.

The native of Hindostan, like our German ancestors, sometimes feels the propensity to gaming stronger than his fear of bondage; and loses his freedom at play. But here the law reasonably makes less allowance for human frailty. The terms of redemption to the Punjeet, or slave thus made, are like those prescribed to the Jooedd Perraput, or prisoner of war, and are the severest in the whole code; yet both the punjeet, and the jooedd perraput, may redeem himself on giving two other slaves of equal value in exchange.

That the modern slavery imposed by the piratical states of Barbary on their prisoners of war, is of a redeemable nature, is sufficiently notorious.

The same right of redemption, I apprehend, prevails throughout the Turkish empire; for I find it expressly recognised and regulated by the Koran. The master is commanded to give to all his slaves, or at least to all that behave themselves faithfully, a writing fixing beforehand the price at which they may be redeemed, and which he is bound to accept, when tendered by them, or on their behalf. *

Nor is negro slavery itself, in foreign colonies, unmitigated by this important right. In Brazil, the slave who can pay the value of his servitude by the savings of his own industry, has a right to demand his freedom. And the case frequently arises; for in some parts of that colony, the slaves have two days in every week allowed to them for their own use: in other parts, one day at least, exclusively of Sundays, and other festivals, which the industrious employ in providing a fund for their redemption. †

In the Spanish colonies the law is still more liberal. The enslaved negro may not only compel the master to accept of his value, when tendered, as the price of his freedom, which value, when contested, the civil magistrate is empowered to adjust; but may even redeem himself progressively, by paying a portion of that price, for an equal proportion of the time during which he is bound to labour for the master. When

* Sale's Koran, chap. xxiv.
Redemption.

rich enough, for instance, to pay a sixth part of his appreciation, he may redeem for his own use, one day in the week; by employing which industriously he will of course be much sooner enabled to buy out a second day, than he could have been through any other application of the money first acquired; and by pursuing the same laudable course, the remainder of his time may obviously be redeemed with a continually accelerated progress, till he becomes entitled to an entire and final manumission.*

This method of enabling the slave to turn his voluntary industry into a sinking fund, as it were, for the redemption of the master's rights, and their gradual extinction, seems to be equally politic and humane. It encourages, in the strongest possible manner, the virtues of industry and foresight; while it avoids the inconveniences sometimes incident to a sudden transition from total slavery to a full and absolute freedom. The first partial attainment of that blessing is not placed at a disheartening distance; and when attained, it must not only confirm the good habits of the man himself, but prove to his fellow-slaves the most powerful of excitements to equal industry and prudence. Instead of being, by a sudden enfranchisement, removed at once into a higher sphere, and beyond the reach of their observation, he continues long under their eyes, an example of the good effects of those virtues which have enabled him, during one or more days in the week, to enjoy the blessings of freedom, by employing that portion of his time to his own choice, and for his own advantage.

The slavery of Africa itself may be in some measure regarded as of a redeemable nature. That freemen given in pawn for debts are to be set at liberty by satisfying the creditor, results from the very object of that practice; but this is not properly a redemption from slavery, as they do not pass into that state, till forfeiture by non-payment of the debt within the appointed time; after which their embarkation in a slave ship soon becomes a perpetual foreclosure.

In respect of the free domestic servants or grumettas, seized for the master's insolvency, we learn from Mr. Park's

and other accounts, that they are certainly redeemable; but whether after a sale by the creditor does not appear. *

Of the slaves properly so called in Africa, however brought into that state, it may be said, that their harsh condition, if not liable to redemption, is, at least, temporary, and defeasible in its nature; and has many chances of being soon dissolved, while they continue in the hands of an African master; for we have already seen† that he cannot fully, or for any considerable time, avail himself of their labour, without converting them into grumettas. This, however, may more correctly be considered as a mode of voluntary manumission, than as a redemption, in consideration of their labour; since it is optional on the part of the master so to employ them, or to keep them on his slave-chain till a purchaser is found.

If the proper slavery of Africa, however, is, strictly speaking, like that of our colonies, irredeemable, it does not partake of those other terrible properties of the latter, perpetuity and transmission to the issue. To give it these, there must be a transfer from a barbarous to a civilized, from an African to a West Indian master. †

SECTION VIII.

OF MANUMISSION.

The second mode or kind of enfranchisement which I distinguished is manumission. It differs from the other kinds as being the voluntary act of the master, neither resulting from any legal right of redemption in the slave, nor compelled by any judicial or political authority.

The term is derived by a very intelligible metaphor, from mittere, or dimittere manu, to dismiss from the hand, or the power of the master; and many of its ancient symbolical forms corresponded with this etymology.

The modes of manumission by the Roman law were very numerous.§

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* See Park’s Travels, p. 288. Supra 87., and note L.
† Sup. p. 70, 71., &c. and Appendix, No. 2.
‡ Ibid.
§ "Multis modis manumissio proiect; aut enim ex sacris, constitu-
Manumission.

The touch of the *vindicta*, the lictor's rod or stick, laid on the head of the slave, by order of a civil magistrate, is the mode best known from classical authority; and was in early times of the most frequent use: its effect also was the most conclusive, and the liberty conferred by it the most perfect.*

But a declaration of the master before his friends, a letter written by him, his will, or other disposition in contemplation of death; and other acts of different kinds indicative of his intention to manumit, such as inviting the slave to sit at table with him as a guest, were also effectual enfranchisements; though at some æras of the Roman law, they did not suffice to confer the same civil privileges with the former. To these modes, the Emperor Constantine added one that was afterwards pre-eminently in use, "manumission in the church," which was a production of the slave before a priest, officiating at the altar; and a public declaration by the master, that he released him from slavery. If there had been a previous instrument of enfranchisement in writing, it was read publicly in the church, and attested by the priest †; but this was not

* Tacit. Annal. Lib 13. Cap. 26, 27. I am inclined to think, that the meaning of this symbolical enfranchisement may be found in a distinction which I have noticed between the Roman and the modern colonial slave law. The Roman slave was not punished by the magistrate for offences against the master, at his instance; consequently, when the master brought him as prosecutor before a criminal tribunal, and requested or permitted that he should receive correction from a minister of justice, by order of the magistrate, it was a virtual admission of his freedom.

The *vindicta*, too, it should be observed, was an instrument of punishment applied only to free persons. The scourge or thong, *flagellum*, or *lorum*, was used instead of it, for the correction of slaves, and therefore was more ignominious. Here I apprehend lies a mistake in defences which we have seen of our own military punishments, when they allege the example of the Romans. The soldier was not scourged, but beat with rods or sticks, as in the Turkish bastinado.

† Brotier, in his notes upon Tacitus de Mor. Germ. Sec. 25. has preserved a form of this species of written manumission, and it appears to have been a perfect enfranchisement, extending even to a release of the future rights of the master and his heirs as patrons of the freedman, "ab omni
necessary, as the personal declaration of the master, in that case, was a sufficient and perfect enfranchisement. It has been supposed that this “Manumissio in Ecclesia,” was intended by the Christian emperor as a substitute for one of the ancient Heathen modes, which had also a religious character, and had been extremely common; namely, that which was solemnized in the temple of the goddess Feronia. The slave, who was to be enfranchised, having his head shaved, was conducted into the temple, and there had his head covered with the pileus, or cap of liberty; which constituted him a free person. Many well known allusions to this practice are contained in the Latin classics.*

Among the nations of ancient Europe, especially the Franks, the Lombards, and such of the German nations, whose slave laws have been examined in the treatise of Potgieser, manumissions were still more various in their modes, than in the republic or empire of Rome. That learned writer has described a great variety of forms, mostly of a rude and simple sort, by which freedom was conferred in these countries.†

Manumissions under our own ancient law of villeinage, were either express or implied. When express, they were by deed executed by the lord, by way of grant or release to the villein, declaring him to be manumitted and set free.

In still more ancient times, they were made in a more public manner, in the church or market, or in the county court, before witnesses, and by appropriate solemnities. But implied manumissions afterwards became so numerous and various, through the benignant constructions of the courts in favour of freedom, that the express forms seem to have become unnecessary, and to have fallen into disuse.

I feel here a professional pride that prompts me to dilate a little, and to shew my countrymen how much they owe to

“vinculo servitutis eum absolvo; ita ut deinceps tanquam si ab ingenuis
parentibus fuisset natus vel procreatus, eat, percat partem quam maluerit,
et sicut alii cives Romani, vitam ducat ingenuam. Et si aliqua procre-
atio filiorum vel filiarum ex ipso orta fuerit, similiter vivat ingenua, et
nulli heredum meorum nec cuiquemque aliae personae quicquam debeat
servitutis nec libertinitatis obsequium, nisi soli Deo, cui omnia subjecta
sunt, &c.”

* “Quod utinam ille faxit Jupiter ut raso capite, portem pileum.”
Plautus Amphit.
the humane and free spirited interpreters of our law; humane and free spirited, even in an age when the legislature, the nobility, and gentry of England, were disposed to maintain and perpetuate the degradation and bondage of Englishmen.

The Courts, though unable directly to reform the harsh rules of law which intitled one subject of the realm to hold another in slavery, and assert a property in his person, availed themselves to such an extent of the maxim, that the presumption of law is always in favour of freedom, and of that metaphysical subtlety in the science of pleading, which was the fashion of the times, that masters found it extremely difficult to establish their titles; and the villein, whenever he asserted his freedom at law, had multiplied chances of success, independently of the merits of the case.

It has been already noticed, that the master (on whom, whether plaintiff or defendant, the onus probandi was cast,) was obliged to prove his prescriptive title by producing in court, at least two of his own villeins, descended from the same male stock with the opposite party, who besides testifying their consanguinity with him, would acknowledge in open court their own servile condition; and yet this was by no means conclusive, but only a preliminary part of the evidence of villeinage, without which, the master could not establish his title. *

If by failure in this primâ facie proof, or by any other means, the master, being plaintiff, was nonsuited, it was held to be a perpetual bar to his claim. On the contrary, a nonsuit of the villein, in his action de libertate probanda, was no bar to another suit of the same kind. Any number of villeins, of the same family or blood, might join in that action, and the nonsuit of one or more did not prejudice the rest; but the master, on the contrary, was not allowed to prosecute for more than one villein by the same writ; and if the asserted property was in two or more persons, as joint tenants or tenants in common, (in which case they were of course obliged to join in suit,) the nonsuit of any one of them was fatal to the claim of the rest, and a perpetual enfranchisement.

* See for all these and the following rules, Co. Litt. Tit. Villeinage. Bracton, Lib. 4. C. 21., and Hargrave's argument in the Somerset cause.
Of the different Modes of Enfranchisement.

But a more copious source of freedom was found in the numberless circumstances of mistake, inadvertence, or neglect, on the part of the lord or his lawyers, which were strained into legal recognitions of the liberty of the party claimed as a villein. The bringing an ordinary action against him, for instance, or joining with him in any suit at law, the pleading to his action without a protestation of villeinage, the praying or assenting to an imparlance in any such action, and other mistakes in pleading, were not only fatal to the master’s claim in the immediate suit, but amounted to perpetual enfranchisement by implication of law.

The same was the effect of many acts out of court; such as the lord’s giving or conveying to his villein any freehold estate in lands or tenements, the entering into a bond or obligation to him; or acts of mere omission, such as the suffering him to serve on a jury, to enter into any religious order, or to remain for a year and a day in a borough or town corporate, or upon lands held in ancient demesne.*

* Litt. Sec. 202 to 209. 2 Roll. Abr. 755, 6, 7. Britton, Cap. 31. See also Mr. Hargrave’s argument in Somerset’s case, where most of these rules are collected, with others of a similar tendency.

Mr. Hume says, that the kings, to encourage the boroughs, granted them the privilege, that any villein who had lived a twelvemonth in any corporation, and had been of the guild, should be thenceforth regarded as free; and he thinks this was done in favour of commerce: (Dissertation at the end of the reign of Richard III. note.) But the rule was broader, and seems to have proceeded on some other or more comprehensive principle. It was not necessary that the villein should be of the guild, and it extended to all cities, and to all the king’s walled towns and castles; consequently was not confined to commercial corporations. The rule also is more ancient than Mr. Hume seems to have supposed; and preceded the era to which he ascribes the dawn of improvements in commerce and the arts. It appears from an abbreviated judgment roll of the 6th Edward II., one of those ancient records which the public spirit and influence of the late Speaker of the House of Commons, Lord Colchester, and the liberality of parliament, have rescued from oblivion, that the rule was either introduced, or confirmed by a charter of William the Conqueror; for to a writ de nativo habendo, brought by a grantee of one of the royal manors, to reduce into villeinage certain men alleged to be villeins of that manor, they pleaded, among other things, that they had been many years resident in the city of Norwich; and set forth a charter of the Conqueror, in which was contained, “Quod si servi permanserunt sine calumnia,” (by which I understand, without personal exception or impeachment for cause of villeinage,
Manumission.

In short, the general principle was this, to regard every act or omission of the lord repugnant in its nature to the relation of master and slave, as a virtual enfranchisement, or conclusive evidence of freedom.

The difficulties which all these rules imposed upon the lord, were enhanced by the necessity of always maintaining his title, when contested, in the superior courts; for the sheriff, in his county court, was not allowed to try the question of villeinage, nor could he seize the villein on a writ de nativo habendo, if the fact of the relation was denied.*

This extreme favour to freedom distinguished our courts of law as early at least, as the time of Edward I., and next to the influence of Christian piety, was the most effectual cause of the progressive and total extinction of slavery in England.

It appears then that this curse and reproach of human society, has everywhere, except in the British colonies, had one great mitigation. The law-givers who have established or permitted private slavery, have at the same time not only permitted, but greatly facilitated and encouraged manumissions. A calamity, usually proceeding from the harsh rights of war, has been not only softened, but progressively eradicated, by the benignity of the municipal code.

In the British West India islands, a very different course of things has taken place. There, the petty legislatures, and the courts of law, have vied with each other in hostility to freedom. The same relentless codes which are singular in denying the humane and salutary right of redemption, are not less singular in their strictness as to voluntary manumission; and in the cruel restraints, not to say virtual prohibitions, recently imposed on it.

No implied, or constructive enfranchisement, in the first

in due course of law) "per annum annum et diem in Civitatibus Regis vel in Burgis Regis muro vallatis, vel in Castris Regis, a die illa liberi efficiuntur, et liberi a jugo servitutis suae sint in perpetuum," (Placitorum in Dom. Capit. Westm. Abbrev., &c. p. 516.)

The judgment, however, was not given on this ground, but that of another constructive enfranchisement, which the defendants also pleaded; viz., a grant from Edward I. to their father, of lands in Norwich, to hold to him and his heirs; which was held decisive in their favour.

* Mr. Hargrave, ubi. sup.
Manumissions discouraged

place, is there in any case allowed; and as to express manumissions, they can only be effected by a will in writing, executed and attested with due solemnities, or by a solemn deed under the hand and seal of the master, accompanied in both cases with registration in a public office. The same laws which permitted slavery to originate by parol contract, if made on the African coast, or in a Guinea yard in the West Indies, and which still allow the master to deduce his title by parol evidence, and demand no proof of the servile state beyond the colour of the skin, forbid its dissolution, except by the most solemn, and the best authenticated writings.

In this respect, as in a hundred others, the assemblies, in their contempt for an oppressed race, have reversed an ordinary maxim of legal policy, as well as the principles of natural justice.*

One consequence of such severity is, that any defect in the instrument, or in the proof of its having been duly executed and registered, is fatal to a claim of freedom. The Roman and English law-givers promoted this act of beneficence on the part of the master, as has been shewn, by multiplying its modes, and eagerly giving effect to every indication of his purpose; but the assemblies have made it as difficult to give a slave his liberty, as to alienate a man’s landed estate.

We shall soon see that this instance of disfavour to freedom is by no means the worst. Meantime, let it be considered how much the practical effect of such strictness must be aggravated by the legal presumption against freedom, and by the civil incapacities of the slave. The donor of freedom, or his representative, if liberal and compassionate, might not assert a master’s rights against an irregular gift; but a flaw in a negro’s manumission is fatal to his freedom, not only as between himself and the former master or his representatives, but may enable a stranger effectually to usurp over him a master’s rights, or expose him to be sold as an unclaimed run-away by the police: for the presumption of law being placed on the side of slavery, any valid objection to the deed of enfranchisement, virtually establishes the claim or defence of a master de facto, or subjects the freedman to be dealt with as a slave,

* Quidque dissolvitur eo ligamine quo ligatur.
without further examination. The negro not proving himself to be free, there is an end of his legal personality; he can be heard no more, either as plaintiff or defendant, in any colonial court; and any oppressor assuming a master's power, wants, as we have seen, no judgment or process of law to warrant the fullest exercise of his pretended rights.

Great then, it is evident, would be the comparative severity and illiberality of our colonial laws in what respects the dissolution of this state, as well as in the nature of the state itself, if I had no more to allege against them. But every former reproach on this head will be forgotten, when the reader shall be apprized of those recent and direct, though barbarous and unprecedented, restraints on manumission, in many colonies, of which the story remains to be told.

Before we proceed to contemplate these anomalies in legislative policy, it may be useful to point out their source.

Among the many aggravations of the evils inseparable from the institution of private slavery which its confinement to a particular race naturally produces, is a feeling at once contemptuous and jealous, in the minds of the privileged class, which opposes the admission of individuals of that degraded race within the pale of civil freedom. A prejudice imbibed from the first dawn of reason, and progressively strengthened by the long associated images of slavery and a black or tawny complexion, represents to the mind of the white creole the bondage of negroes and mulattoes as their natural condition; and their liberty as a presumptuous usurpation of privileges which ought exclusively to belong to his own elevated class. But among the whites in subordinate stations, and such of them as are engaged in mechanical occupations, or in the lower walks of commerce, this prejudice is nourished not only by education and habit, and by the contagion of social sentiment, but also by self-interest; for the free coloured people are their powerful competitors, and often their successful rivals, in employment and trade. It has been truly alleged, though for the purpose of most unfair and deceptious inferences, that free negroes and mulattoes in the colonies are never known to earn their bread by agricultural labour. The true reasons are, that the driving system makes such labour vile in price, as well as disgraceful in character; and that they can maintain
Manumissions discouraged

themselves far better by much easier and creditable employments. The same favour, or the same talents, which procured their manumissions, will commonly enable them to raise capital enough to embark in some retail trade; or to gain a comfortable support as artizans or mechanics, or upper domestic servants. Now, in whatever way they earn their subsistence as free men, except as menials, the poorer whites naturally regard them with jealous eyes, as supplanting themselves, or persons of their own order. Hence, as well as from disgust at all approaches to equality with the despised African race, the increase of the free coloured people has always been a subject of dissatisfaction, and of indignant complaint, with the white inhabitants of our islands.

When the Roman slave or the English villein was enfranchised, he formed a scarcely perceptible addition to the mass of citizens or subjects previously free. All the sympathies of nature pleaded for his welcome reception into their order, and no private interest was large enough to be discernible on the other side. The conversion of slaves into free men, therefore, was not more favoured by the laws, than by the popular voice. It is in small societies only, and when the free members of them are few in number compared to the slaves, that personal freedom can be regarded as a source of emolument, in respect of the functions and capacities attached to it, so as to beget a spirit of monopoly in its possessors. But such a spirit is certainly felt among the poorer classes of whites in our islands; and very powerfully concurs with a proud tenaciousness of the complexional superiority, to make enfranchisement odious in their eyes.

It is by the white colonists, who are lowest in station and fortune, that the distinction of colour is the most proudly and violently maintained. It is a distinction which not only saves their poverty from contempt, but gives them some degree of consequence and power, even in the meanest and most indigent state to which fortune can reduce them. It enables them to exact profound respect from nine-tenths of the community; and puts them on a footing of equality with the remainder; for the inherent nobility of European blood makes compeers of all the whites; nearly levelling in their manners toward each other, all disparities of rank and fortune. Such of them,
therefore, as earn their subsistence in the humbler walks of
industry, or who live, as many of them do, in lazy indigence,
regard with indignant eyes a free coloured population increas-
ing around them, following, and thereby disparaging their own
callings, and enjoying, perhaps, a degree of ease and comfort
which they themselves cannot command.

These characteristics may serve to account, in a very na-
tural way, for those opprobrious acts of assembly which I
must now proceed to consider—acts which have restrained,
and virtually prohibited manumissions; for the poor whites,
who form the populace of the West Indies, powerfully in-
fluence the insular legislatures.* Their applause is local po-
ularity, and the popularis aura loses none of its force by
being confined to the area of a small society. On the con-
trary, the flame of public spirit, which it fans, has always
burnt bright and high in an inverse proportion to the magni-
tude of the state.

Let it be remembered too, that this influence in a colonial
assembly has no counterpoise as in the parent state to balance
or oppose it. The executive government has nothing, or scarce
any thing, to bestow, which the members think worth their
acceptance; and I am sorry to be obliged to add, that the
little influence, of a personal or official kind, which a governor
may possess, has oftener fallen in with, than withstood the

* The influence was fatal at St. Domingo, as soon as the colony was
cursed with a legislative assembly; for it is now no longer a question
among the ex-colonists in France, that the persecutions cruelly raised, and
perfidiously renewed, against the mulattoes, were the true causes of the
ruin of that island; and it was notoriously the petits blancs, or white mob,
who were the chief authors, not only of the insurrectionary massacres of
which the gens de couleur were the victims, but of the insane policy by
which the assemblies and municipalities insulted, oppressed, alarmed,
and finally drove them to despair. It was by the petits blancs that the
municipal officers and committees were elected and filled; and it was by
their clamour and violence also that the colonial assemblies were urged on,
at the very crisis of their fate, to the most desperate measures of hostility
against the free coloured people; a body which alone could, and but for
their own madness certainly would, have saved them from destruction.
St. Domingo was made an aceldama and a ruin, because it was virtually
governed by a white mob; and because that mob hated the free negroes and
mulattoes more than it feared the slaves.
Manumissions discouraged

tide of popular feeling, when new legislative oppressions of
the unfortunate slaves and people of colour have been pro-
posed in the assemblies. How, indeed, can the contrary be
expected, while men nursed in the same local prejudices, and
strongly tempted by their necessitous circumstances as planters
to all the ordinary abuses of a master's power, have so very
commonly been selected to preside over our West Indian
islands; and when the governors are made dependent in a
great degree on the assemblies for the emoluments of their
offices.

It might excite surprise, perhaps, were the force of these
causes fully known, that such cruel innovations as I have to
notice were not sooner introduced; but there were difficulties
in so gratifying the petits blancs of our islands; not only from
the fear of the royal negative, which formerly was very often
opposed to acts of assembly new and objectionable in their
principles, but from the opposition of private feelings in the
councils and assemblies themselves. Such members as had
natural children, or concubines, in a state of slavery, were
naturally averse to restraints, by which the door of freedom
might be shut against their own offspring.*

At length, however, a way was found in one or two colo-
nies of reconciling in some degree the popular wish, with the
private feelings of the legislators; and restrictions were de-
vised, such as we shall presently review, on pretences specious
enough to hide from the eyes of those who advised the crown
in such cases the true object of the odious innovation. The
expedient was to impose, under the pretence of a regulation
of police, such a heavy tax on manumissions, or to require
such securities upon them, as would greatly check them in
ordinary cases; and yet present no formidable impediment to
an opulent man, when wishing to gratify natural affection, or
impure attachment, by the grant or purchase of freedom.

The sacred principle of favouring enfranchisement by law,
being once violated, further innovations in the same spirit

* If the reader doubts that private feelings of this kind were likely to
be active in every colonial assembly, I might refer him to almost every
writer who has noticed the manners of the West Indies. I will mention
only Mr. Bryan Edwards's History, Book iv. Chap. 1.
were found comparatively easy. Other legislatures did not scruple to copy the precedent, and even to go largely beyond it, in the amount of the tax imposed, on like ostensible grounds. The pretext chiefly resorted to, was that enfranchised slaves were often destitute of any honest means of subsistence, and therefore were obliged to live by thefts, and other dishonest practices. Some assemblies even alleged or insinuated that freed persons became chargeable on the parishes; though in most, if not all, of the islands that adopted this pretence, such charges for paupers of the African race were then, unless I am much deceived, wholly unknown*; and it is notorious that in every part of the West Indies indigence among the free coloured people has always been extremely rare, especially when compared with its prevalence among the white population. In some of the acts it was expressly recited, and in all virtually assumed, that manumissions were often fraudulent on the part of the masters, their object being to avoid the charge of supporting old and infirm slaves when incapable of labour; a representation that would be credible enough if the master had been compellable to support them in their servile condition, by law; but there was not at the time, nor ever had been, any such legal obligation; and though some of the subsequent meliorating acts ostensibly supply this defect, by prescribing certain allowances of food and other necessaries, they are notoriously inoperative, and incapable of being carried into effect by compulsory means; so that even at this hour, if a master wished to withhold subsistence from his disabled slave, a fraudulent manumission would be perfectly needless and useless. Indeed it would even be adverse to his purpose; for the slave might be more conveniently, because more privately, famished in his servile state, during which he might

* This I believe was universally true as to all our islands when their anti-manumission laws were made. It has been since provided by the meliorating act of Jamaica, of 1792. Sec. xvi., and by the meliorating act of the Bahamas, of 1797. Sect. iv. that the vestries may impose taxes on the parishioners, for the support of manumitted negroes and mulattoes, when disabled by sickness or age; whether any similar acts have been passed in other colonies, I do not know; but am told that in St. Christopher free persons of colour do now in fact receive parish relief. The class has much advanced in consideration of late years there, and in other islands.
be confined to the plantation, and could neither be a prose-
cutor nor a witness. It is obvious, therefore, that if the hu-
mane motive in question had been the true one, the assem-
blies ought rather to have affirmed the manumission if neces-
sary, than annulled it. They might, then, in such cases
have charged the master with the freed man's future sub-
sistence, and given a remedy for it which the man himself
would have had civil capacity to prosecute. These pretences,
however, were not too gross to answer the intended purpose
in England, though the indiscriminate and inconsistent pro-
visions of the acts themselves might have served to show their
insincerity. The assemblies, therefore, pursued their oppres-
sive course. The original imposts on manumissions were
progressively aggravated; and in some instances were carried
so high, as to amount to a virtual prohibition in every ordi-
nary case.—They were raised in some colonies to a hundred,
in Barbadoes to two and three hundred, and in Saint Chris-
topher to five hundred, and in some cases a thousand pounds,
on every slave manumitted; and this without any exception
in favour of merit, however strong, or any discrimination in
respect of age, or health, or strength, or capacity of self-sup-
port; circumstances which, if the professed, had been the
ture motives of the legislatures, would obviously have dic-
tated many exceptions, as well as great modifications and
gradations, of the heavy duties imposed.

Though the professed object was to secure a subsistence for
the freed persons, and to protect the parishes from burthens,
those objects were for the most part left wholly unprovided
for; and were no where promoted in a just proportion to the
sums exacted. One or two of the acts affected to give a life
annuity to the party enfranchised; but less by one half than
the money would have purchased, even on the youngest and
choicest life, though the tax was founded on the assumption,
that old age and disease were ordinary causes of enfranchise-
ment. In one island, Grenada, an annuity less dispro-
portionate to the sum exacted was provided by the tax act itself;
but was by a subsequent act wholly taken away, and the tax
nevertheless retained. There, and in almost every other
island, the entire duty was given, not to the parish chargeable,
as was pretended, with the freed man's support, if he became
by Taxes and other Restraints.

a pauper, but to the colonial treasury; and no part of it was any where directed to be refunded to the manumittor, though his freedman should die the next day. The more common proceeding was to confiscate the whole sum to the public use of the colony, without even the shew of providing in any manner, either for the relief of the freedman when in want, or for the indemnity of the parish.

The frauds which these acts affected to restrain could obviously have no place in manumissions by will. If living masters had been compellable by law to maintain their aged and disabled slaves, their posthumous representations at least were free from any obligation to do so; and it has never been any where pretended that the assets of a deceased owner are liable to be resorted to for that purpose. No such provision is to be found, I believe, even at this day, in the most specious of their meliorating laws, except in the last edition of that of Jamaica, the act of December 1816, of which I shall presently speak.* A testator then must have chosen to sin in his grave, without any possible motive, if he had fraudulently bequeathed freedom to a slave, merely because the man was old and infirm, or otherwise disabled, from gaining his own subsistence. Unless we can suppose so useless, unnatural, and incredible a fraud, every testamentary enfranchisement must be admitted to have been designed by the testator as a benefit to the legatee; and if so, the bequest itself affords a satisfactory presumption, that the case is not within the alleged principle of these restraining laws; for the owner of the slave must have known whether he had that capacity to maintain himself, without which, the gift of freedom would be the reverse of a benefit. The testator also, presumably, knew the moral character of the slave to be such, that he was likely to make a good use of his liberty; for the motive of such beneficence, (except, indeed, where a mistress or her children are its objects,) must in general be regard or gratitude, the fruit of faithful services, and more than ordinary merit in the legatee. Notwithstanding these grounds of distinction, the acts have imposed the same taxes and restraints on manumissions by

* Act of December 1816, Sect. 41.
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will, as on those which are granted by deed in the master's lifetime.

If justice or compassion to this unfortunate class had been principles of colonial legislation, special provisions would long since have been made by law for effectuating, instead of obstructing, testamentary enfranchisements; for dishonest executors frequently dissent from such bequests, or withhold freedom from the legatees, on a false pretence that they have not assets to satisfy the debts of their testator; and the cruel fraud is remediless; the unfortunate negro having neither the means of prosecuting a suit in equity for a discovery and account of assets, nor any civil capacity to sue, till the manumission is actually granted, and his freedom fully established. The executor sometimes takes still further security against any future inconvenience from his complaints. He suffers a judgment and execution de bonis testatoris to be obtained against him; and it being the usage in the colonies, to levy on whatever goods of sufficient value the defendant in an execution presents for the purpose, the poor legatee is presented to the officer, and consequently seized and sold; by which means the purchaser, under the express provisions of law, obtains a sure and indefeasable title.

The acts under review obviously furnish new pretences for such oppression, and stronger temptations also to it than before; for unless there is a certainty of a surplus beyond the debts equal to the amount of the tax, the executor cannot fulfil his testator's intention, without risking the loss of the manumission duty out of his own purse; whereas by omitting to do so, he may save, for his own benefit perhaps, if he has assets, the amount of the money, as well as the value of the slave. Yet the acts which give such temptations and countenance to a most cruel species of injustice, afford no protection whatever against it. In one of them, indeed, an act of Barbadoes, I find, it is provided as to manumissions by will, that if the heir or executor should refuse to pay the tax of 50L, (which was afterwards raised to 200L. and 300L,) the churchwarden, to whom it was made payable, might sue for it, and on recovering it, execute a deed of manumission. The legislators, therefore, did not overlook the probability of such injustice; but what remedy do they give to the much injured
They give him the chance that a Barbadoes churchwarden, may choose for his sake, not only to quarrel with a gentleman of the parish, but to prosecute against him a suit in chancery, for a discovery and account of assets, at the peril of costs, in order to attain the unpopular object of adding one to that despised and hated class, the free people of colour!!!

I am not aware that any better or other remedy has been provided for such very probable and pitiable cases, in any British colony; and in most, or all the rest of these anti-manumission laws, there is no pretence of giving any remedy in such cases at all.

In Jamaica, the restriction on enfranchisement is not in the form of a tax, to be paid on the execution or registration of the manumission, but of a bond to be given for the payment of an annuity of £5 per annum to the freed negro or mulatto, for his life; and this, as in the other islands, without any exception as to slaves enfranchised by will, the want of which, as well as the restriction in general, was a subject of the strictures contained on this branch of oppression in the unpublished first impression of the present work; because, among other reasons, the executors could not execute a manumission, without making themselves personally responsible, by bond, for a life annuity. The Jamaica Assembly, in its latest amendments of its Consolidation act, consequent on the Register Bill, has endeavoured to obviate this particular objection, by a specious, though very inadequate provision: the annuity is declared to be a charge on the estate of the testator, and the slave is to be immediately set free, without requiring any bond; saving, nevertheless, his liability to the testator’s debt.

If these restraints of enfranchisement had been generally defensible, and if testamentary manumissions had not been without the range of the principle to which they are ascribed, this new provision would have been reasonable enough, as far as it goes; though it leaves the helpless legatee exposed as before, to be levied upon and sold, and consequently for ever deprived of the means of obtaining his freedom, however ample the estate may be, for the payment of the debts. But the objections to the restriction itself, are obviously untouched by this amendment. The legislature adheres to, and at the present æra of vaunted liberality, confirms, the cruel and baneful
innovation of discouraging voluntary enfranchisement; and adheres to it without any such discrimination of age, or health, or moral, or physical qualifications, as the alleged principle of the rule undeniably demands; and in testamentary cases also, to which that principle is wholly inapplicable. If the assembly is to be credited, the discouragement is even greater than before; because, instead of a bond, (which that honourable body represents as in practice almost a mere form, and such as any person might supply *) there is now to be the highly inconvenient incumbrance of a life-annuity on the testator's estate. Can it be doubted that the dislike to such a charge will often stand between the owner's beneficence and the freedom of a deserving slave? If he has a real estate, the incumbrance will probably affect the marketable value of his property, by more even than the life-annuity is worth; and if his estate is merely personal, its ultimate administration must be suspended till the death of the legatee; for the executor must retain in his hands, or place out at interest, a principal sum, sufficient for his indemnification. In the latter case, what proportion does the security of the public against the alleged evil, bear to the risk and inconvenience imposed on the residuary legatees? Let the intelligent reader weigh these remarks; and then ask himself whether this new provision was calculated to alleviate oppression, or only to parry a reproach.

If it can still be doubted that the true object of the Assemblies was to prevent, not to regulate enfranchisement, and to check the increase of the free-coloured class, it may be worth while to notice a distinction in the Barbadoes' Act of 1801, between males and females; it imposing a tax of 200l. only per head on the manumission of the former, but 300l. on the latter. Many obvious considerations would lead us to expect that, when a difference of this kind was made, we should find the favour on the female side; but the real views of the lawgivers suggested to them a decisive consideration in the opposite scale. Free females alone, let it be recollected, can give native additions to the free-coloured class.

If it may be reasonably presumed that there is some general agreement between the feelings and views of different

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* Report of the Jamaica Assembly on the Register Bill.
West India assemblies, who, under the same local circumstances, have concurred in the same harsh innovations, their true principles and objects will admit of still further demonstration; for some of these bodies have not thought it worth while to resort to any of the pretexts I have noticed, or to practise any reserve; but have freely avowed their principle to be that the increase of the free-coloured population is in itself an evil, and that for this reason manumissions ought to be restrained; to which end their enactments are therefore openly and unequivocally directed.

By an act passed in Saint Christopher in 1802, before which period there was no restraint whatever on manumissions there, it was expressly recited as a great inconvenience, that the number of free negroes and of free persons of colour was augmented by the enfranchisement of slaves. It is premised, indeed, that this inconvenience had arisen from a custom prevalent of late years of bringing them from other colonies, and manumitting them in that island; and it is added that suspicious and improper characters were often turned loose on the public; but the augmentation of the free-coloured class is nevertheless treated as the substantive evil to be checked; and accordingly the restrictive enactments comprize slaves long settled or born in the island, as well as others; with this difference only, that while a tax of 1000l. was imposed on the manumission of every slave who was not a native of, or had not resided for two years within the island, the natives or residents might be enfranchised at half that price. The sum of 1000l. in the one case, and 500l. in the other, were directed to be paid into the treasury of the island for its public use; and unless such payments should be made, prior to or at the time of registering the manumission, it was declared to be void.

Of course even the smaller of these taxes was tantamount in all ordinary cases to an absolute prohibition; but in order, I presume, to conciliate some leading men whose parental feelings might be alarmed, a power was given to the council and assembly to dispense with the tax at their discretion, in any particular case. The case of testamentary manumissions was not only generally included, as usual in these acts, but specially noticed; and it was enacted that no negro or other
slave to whom his or her freedom should be bequeathed, should enjoy the same, unless the said sum of 500l. should have been devised by the testator, and be paid by the executor into the treasury of the island within six months after the master's death; so that if a testator should omit expressly to devise 500l. for the purpose, or if the executor should not choose to hazard the payment of such a sum, and the grant of the manumission (both of which any creditor might dispute), within half the time which the law generally allows him for ascertaining the sufficiency of the estate and paying the legacies; in either case the negro was to lose his freedom; and in the latter case, the executor, if intitled to the residue, was to gain 500l. by his prudent omission, in addition to the value of the injured but helpless slave.

There is another clause in this act which marks the true spirit of the system with peculiar force. Such was the hostility to the freedom of the African race in the minds of its authors, that they determined, if possible, to prevent the deliverance of negroes by a master's favour from the actual evils and restraints of slavery; as well as to prohibit its dissolution in point of law. They considered that a master, though unwilling, or unable to pay 500l. or 1000l. for the legal enfranchisement of a favourite slave, might, during his own life at least, make him or her practically free, in great measure, by not exercising his own rights as master; and they therefore enacted "that if any proprietor of a slave should, by any contract in writing or otherwise, dispense with the slave's service, or should be proved before a justice of peace not to have exercised any right of ownership over such slave, and maintained him or her at his own expense, within a month, the slave should be publicly sold at vendue by the provost marshall; and should become the property of the purchaser, and the purchase-money should be paid into the colonial treasury."

I can find nothing in the annals of legislative despotism in ancient or modern times that can bear a comparison with

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by Taxes and other Restraints.

this; and will be obliged to the apologists of the colonies to assist me with a precedent if they can. Yet, be it observed, this act is no obsolete or antiquated specimen of colonial oppression. It was passed about twenty years ago only, and five years after the assemblies of this and other islands, had undertaken, in consequence of Mr. Ellis's motion, and the solicitations of his Majesty's government, to improve and liberalize their Slave codes.

I am told, on the private authority of a gentlemen, lately arrived from Saint Christopher, and who cannot well be mistaken as to the fact, that this act has since been repealed; and believing his testimony (which seems also to be confirmed by an official return, to be presently noticed), I will give the colony credit for having thus relented; though the act of repeal is not to be found among the Slave laws since transmitted, and printed by order of parliament.

But the repeal does not impair my right to use this act, as illustrative of the general spirit of colonial legislation on the same important subject; and as demonstrating the true object of such laws. It is only the more incumbent on the government and parliament of this country to prohibit these oppressions in future, when the assemblies are found themselves, in some instances, to have repented of and abrogated their own cruel enactments; for it proves that the wrongs inflicted by them, though fatal and remediless, were wanton and without excuse. What, in this instance, can be thought of a measure so soon and so totally repudiated by its authors, that, within a few years after the enfranchisement of a slave had been suddenly subjected to a tax of a thousand pounds, having always before been free from any import or restriction whatever, it was again as suddenly exempted from the entire tax, and left wholly unrestrained? Either such extreme retrogression was unwarrantable; or the repealed act was a most grievous and wanton abuse of power. But how are the unfortunate sufferers by it to be compensated or relieved? Beyond doubt, the act, during the few years of its existence, prevented the enfranchisement of many innocent children, and many meritorious slaves of both sexes, who with their posterity must now remain in perpetual bondage, notwith-
standing the repeal; for the masters in many cases have probably died, and their estates been distributed, and in other cases they have fallen, perhaps, into poverty or ruin, and are no longer capable of that beneficence which was before thus cruelly restrained.*

Another of these acts of assembly, which I believe to be still in force, is, if possible, still more demonstrative of the spirit in which they have been framed.

It is an act of Bermuda, passed so recently as 1806, and its preamble is as follows: "Whereas the rapid increase of the number of free negroes and free persons of colour is a great and growing evil to this community, and to prevent the same it is deemed expedient to regulate the emancipation of slaves."

* We have some means of estimating in a general way, how many victims the act probably made; because, though the late returns from Saint Christopher do not furnish any express information as to the tax which had been imposed and repealed, or the time of its repeal, so as to enable us to compare the number of manumissions while the act was in force, with those at prior or subsequent periods; those necessary data seem pretty clearly discoverable from the extreme contrast between the numbers manumitted in the first seven years, and the last seven years respectively of the period comprized in those returns; they amounting in the former only to twenty-five, or an annual average of between three and four; while in the latter, they amount to five hundred and twenty-eight, or above seventy-five per annum.—(Papers of 4th March 1823, No. 2. p. 110.)

There is in the printed returns of manumissions from other colonies a plain indication of the years when these taxes existed, and when they were repealed or reduced, for an account of the taxes received yearly on such instruments is set forth. But in Saint Christopher, the enormous amount of the tax, precluded, no doubt, its being ever paid. Its effect must have been a simple and total prohibition; except in a few cases in which special favour of the council and assembly wholly dispensed with it. The return of the registrar of deeds, therefore, is as to sums received for taxes or fines, a mere blank; and his certificate subjoined has an ambiguity, which I cannot think accidental, that avoids all express notice of the act and its repeal. The registrar, I know, is a very respectable gentleman; and probably wished, for the credit of the island, to bury in oblivion a measure of which I am informed he was, as a member of the colonial legislature, a very strenuous, though unsuccessful opponent. I subjoin a copy of the return and certificate, that the reader may judge for himself how far my surmise is just.
by Taxes and other Restraints.

It then proceeds to enact, that no slave owner shall emancipate a slave of forty years of age or under, except upon condition

Saint Christopher (No. 3.). A return of all manumissions effected by purchase, bequests, or otherwise, since the 1st January, 1808, to the 30th day of November, 1821.

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<th>Years</th>
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<th>By Bequest.</th>
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</tbody>
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I certify that the foregoing is a true return. And that there has been no tax laid, or fine imposed or paid in the island, for the time aforesaid, on the manumission of slaves; and that I am not aware of any existing law of the said island for that time requiring it. — (Same papers last referred to.)

(Signed)

J. G.
Registrar of Deeds.

It is certainly possible that the act imposing a tax of 500l. and 1000l., which passed in 1802, may have been repealed before the period comprised in these returns; but the words that I have printed in italics do not clearly require that construction; and I deem it more probable that the repeal was in or immediately prior to 1815, when the annual manumissions suddenly rose from 6 to 118. I deem this the more probable, because it was the year in which Mr. Wilberforce’s Register Bill, and the discussions upon it, resuscitated the spirit of reformatory legislation in the colonies. But if I am wrong in this surmise, the effects of the prohibitory law apparently must, as sometimes happens in like cases, have outlived for some time the prohibition itself. Some years perhaps elapsed before the owners of slaves, generally non-residents, were apprized of their liberatory powers having been restored, and before the means of purchasing freedom were again prepared. But whether the act in question was sooner or later repealed, no reader, I believe, who examines the return will doubt that the
Manumissions discouraged

of such slaves leaving the Bermuda Islands within three months of the date of the emancipation.*

A reader who had given credence to the pretexts of other colonial legislatures on this subject, would naturally suppose we had here an error of the press; and that for “forty years or under,” we should read “forty years or upwards,” because though none of the other acts make any distinctions in respect of age, their ostensible objects plainly should lead to restraints on the enfranchisement of the old, rather than the young; whereas we here have that preference inverted. But the explanation is simply this. In the Bermuda Act the professed principle was the true one; and there being no aim to disguise it, the assembly naturally limited the absolute prohibition to the enfranchisement of the younger slaves, who were likely the longest to be members of the hated class, and to increase its members by procreation. That other colonies did not

imposition and removal of taxes of 1000l. on foreign, and 500l. on native slaves, must have been the causes of such enormous inequalities in the numbers of manumissions as the return exhibits; being in the proportions of more than twenty to one.

The imposition and removal of much lower taxes in other colonies will be found to have produced corresponding and proportionate effects. The returns from Tobago, for instance, shew, that before October 27. 1814, when a duty of 100l. was first imposed on manumissions there, the numbers enfranchised had amounted to an average of 52½ per annum. In the six following years it was reduced to an average of 3½. The tax was then taken off; and in the remaining year, or part of a year, comprised in the return, eighteen is the number of manumissions. — (Same Parliamentary Papers 65 to 69.)

* See it in the Papers of 5th April, 1816, page 38. to 40. It has a clause limiting its existence to the space of seven years, “from and after the time that his Majesty’s assent shall be had thereto, and made known in these islands.” Whether that assent was ever given and notified, and when, I do not know; nor whether the act, after such assent, was continued or revived; but finding it returned to the House of Commons on the 1st day of March, 1816, pursuant to an address to the crown, and printed by order of the 5th of April, in that year, I am led to conclude that it was then considered as an existing law; which it could not have been without revival, if either disallowed by the crown, or notified in Bermuda as allowed prior to March or April 1809. Perhaps it may have remained without any notification either of its allowance or disallowance by his majesty; and if so, I apprehend it is still in force; for there is no clause to suspend its operation till the royal pleasure is known; and the limitation clause, as thus worded, can have no effect till an actual notification of assent.
take a like course, was probably because it would have betrayed too clearly their true purpose; the discovery of which was made less open and glaring, at least, by treating all ages alike. To have discriminated in favour of the young, would have much better countenanced their ostensible, but spoiled their real object.

This Bermuda Act follows up its prohibition in the most effectual way. The younger freed persons, if they return to the colony, are to be taken up, transported by public authority, and sold into slavery again. As to those who are above forty years old, a tax of fifty pounds only is imposed on their unconditional manumission, and they may stay in the colony if they will. Further provisions are made for keeping down and diminishing the numbers of the same obnoxious race. They are totally incapacitated from holding any real estate in the Bermuda Islands, or taking any lease, for more than seven years; a species of oppression which I notice only as a concurrent indication of the true spirit of these laws; for in other respects, it does not belong to my present subject. I will only say, therefore, that the justice of such disqualifications, in which Bermuda is not singular, is, at least, equal to their political wisdom.

Having given this general account of the nature and origin of the laws, by which the dissolution of slavery has been discouraged and restrained in the British West Indies, I will not detain the reader, as I first intended, and was prepared to do, with a particular review of these cruel and pernicious laws, and their progress in the different colonies; because I find from papers recently printed by parliament, that most of the assemblies have at length repealed their taxes on enfranchisement; and perhaps before these sheets can issue from the press, others will have followed the example. Most willingly would I therefore have abstained even from this summary view of the subject, and consigned to oblivion, were it possible, these odious and disgraceful laws, if it had not appeared to me probable, from the recency of the act of Jamaica lately commented upon, and other circumstances, that some of the colonial legislatures are still disposed to adhere to the system of discouraging and restraining manumissions, unless the go-
vernment and parliament of this country shall control them in that oppressive purpose. In that view I would offer a few further remarks on the crafty pretexts on which so many acts proceeded, for they may, perhaps, still obtain some partial credit here, though most of their authors have now virtually renounced them.

The Jamaica assembly, in a report I have before referred to, that of December, 1815, has attempted to defend its own share of this new system. "The only object of the law," (says this report), "was to prevent ill-disposed persons from evading the duty imposed on them, of supporting the old, infirm, and helpless slaves, by manumitting them, and on pretence of being free, removing them from the estates, and withdrawing the allowance of clothing and sustenance." "This," continues the assembly, "has been completely accomplished; and in the whole extent of the island you do not behold an infirm and vagrant slave begging in the streets. The repeal of this salutary law," (it is added), "would be highly injurious to the slaves, and transfer the responsibility of supporting them, when past labour, to the parishes."*

This is a very important as well as plausible passage, and every word of it deserves attention.

The only object of the law having been such as here stated, it follows, in the first place, that the only freed persons, whose necessities and vagrancies gave rise to it, were those who had been manumitted when "old, infirm, or helpless."

We have here also, on the testimony of the Assembly of this our largest, and nearly our oldest West India colony, a further and complete exculpation of the free people of colour in general from the charge of abusing their freedom by idleness, and being in consequence addicted to vagrant and mendicant habits; for though their numbers in Jamaica have long been so large that Mr. Bryan Edwards estimated them thirty years ago to amount to ten thousand, and to constitute half the free coloured population of the British West Indies, we here

* See the report, as before referred to, p. 17.
find that there is not a beggar of their class to be seen in that island.*

I confidently believe the statement to be true; for during a residence of eleven years in the Leeward Islands, I never saw a black or mulatto mendicant, with the exception of a few negroes covered with that loathsome disease the leprosy, who sometimes presented themselves by the way side to the eye of the compassionate passenger, and by their looks and gestures seemed to supplicate relief; but these were not free persons: they were generally understood, at least, to belong to planters, who suffered them to wander, in order to get rid of a nuisance on their estates; and they could not work for themselves; because from their morbid and disgusting state, no one would choose to employ them.

That individuals of the free coloured class sometimes fall into indigence cannot be doubted. They cannot be invariably exempted from the common casualties and misfortunes which make poverty and want so lamentably prevalent among the white colonists around them. But they find resources, I presume, to save them from beggary in the sympathy, and esprit de corps of the more fortunate members of their class; like the members of certain religious sects in this country.

The Assembly, it is true, ascribes this exemption of Jamaica from black and mulatto mendicants and vagrants to the Act of 1775: but though as to the fact, the reporters could not be mistaken, as to the explanation, they very probably might; for very few if any of the members of course could remember whether the case was different fifty years ago. I must take leave therefore to say, that upon the Assembly's own statements in the same paper, it is not only incredible, but utterly

* It is, perhaps, hardly necessary to observe, that the word slave, in the former as well as latter clause of the above extract, is used inaccurately to denote one who had been a slave; viz. a manumitted negro or mulatto. The sense of the paragraph as well as its context, and the whole argument it belongs to, plainly demands this construction; and the reference to visible observation as plainly requires that we should include all negroes and mulattos, whether enfranchised or free born; for, as there is no visible distinction as to the source of freedom, the assembly could not have used this argument if black or mulatto beggars of either class had been seen in their streets.
impossible, that the security required on manumissions should have been the cause of the exemption they boast. It is impossible; because there are only two ways in which the law could in any degree have produced such an effect, namely, either by preventing enfranchisements, or by providing effectually for the support of the enfranchised; but on the facts stated it cannot have operated universally, or even to any considerable extent, in either of those ways; for the report tells us that the act has been so liberally construed as to give effect to its real intention "without making it operate as a restraint upon manumissions;" and "that upon this principle it has been deemed sufficient to satisfy the law that the bond required by the act should be given at any time, and by any person, subsequent to the manumission." It is added, "that the churchwardens do not expect the party executing the manumission to enter into the bond, but any responsible person, of whatever class or colour, being free, is accepted as the bondsman."

Taking this account of the practice to be true, it would to be sure be difficult to believe that the necessity of giving or procuring a responsible third person to enter into a bond for a life annuity, operates as "no restraint on manumissions." Upon ordinary principles of action, a master might be expected to pause when called on to enter into such an obligation, though otherwise willing to give up or sell at its value their right to the future service of the slave. It might be presumed also that he would be most likely to demur to such a condition upon those very manumissions which the Assembly tells us the law did not mean to restrain; and little comparatively upon such the prevention of which, as we are here told, "was its only object;" for who would not rather be bound to pay an annuity for the life of an old, infirm, and helpless man or woman, than for one in the prime of youth, and of a sound and vigorous habit? besides, the master has to gain something in the one case, by getting rid of an incumbrance; whereas in the other, he has to give up his property in an able and valuable slave.

Such obvious considerations certainly make this part of the assembly's defence a little hard of digestion. But assuming its truth, and that manumissions are not in fact at all checked by
this law, how can it possibly have happened, that the subsistence of all the freed persons has been sufficiently provided for, to the end of their lives? We are desired to believe not only that 5l. Jamaica currency per annum is sufficient to keep a free person, when disabled by age or disease, from want; but that a bond for it, no matter when taken, or from whom, is an infallible security for its payment. In a climate in which life is so very perishable, and personal responsibility so much more so, it is enough, it seems, to have a bondsman, in order to secure that a child of a year old enfranchised to day, will never want a subsistence if he should live to three score and ten!! The poor Africans, who suppose that there is a magical virtue in every written paper, may perhaps believe this; but it is too gross for European credulity.

If, however, all this could be credited, how can the assembly explain the absence of want and beggary among that large portion of the free coloured class who have no bondsmen, and no life annuities at all, they never having been manumitted, but free born? Does the liability to fall into want and beggary end at one remove of this indolent class from slavery? or do the immortal bondsmen, after the death of the annuitants, gratuitously continue the same ample support to their children and descendants? If not, the streets of Jamaica should, notwithstanding this wonder working law, be infested with beggars of the first and second generation.

The assembly, however, in telling us that the act is so liberally executed as not to restrain manumissions, gives up in effect its defence of the act itself; for to restrain manumissions is its object; and if they are not restrained, the object is lost, and the act is at least useless. These apologists were conscious that they could hope to justify such restraints, in European eyes, only under such special circumstances, as they pretend were solely in the view of the legislature; but unluckily the act is general. It restrains the manumission of the young and able, as much as the impotent and old; and in a way that clearly precludes any practical discrimination between them. The lax and merely formal execution of the law therefore in all cases was thought a necessary further plea, however ill it comported with the former; and though it consisted still less with the pretence that the act had fully accomplished its purpose.
It is obvious, that utterly insufficient though this defence is to justify the Jamaica law, it suffices for the condemnation of that of every other colony in which the taxes upon enfranchisement are yet unrepealed. If every alleged object of these laws has been accomplished in that large and populous colony, without any duty on manumissions, and by the owner or any third person giving bond for a life annuity of 5l. currency, what excuse or extenuation can be offered for acts that exact large sums from the manumittor or his representatives for the public use of the colony; and which, unless these mulcts for beneficence are paid, annul the grant of freedom?

There is one colony, it appears, among those in which this species of oppression is not abandoned, or not yet known to be so, that either exacts security, or imposes taxes on manumissions, not by any general law, nor to any limited amount, but at the discretion of the local government. I mean Demerara; one of those new colonies on the South American continent, fatally for our insular planters and their slaves, acquired at the last peace by this country.

Over this colony presides one of its own planters, Lieutenant Governor Murray; and what is there called the Court of Policy; a kind of council, the members of which, as I understand, are appointed by, and act during the pleasure of the governor or the crown; and they also, I believe, are all planters, or at least slave owners within the colony.

This court, and the governor, who as I understand presides in it, appear to exercise, (under what authority I know not,) the formidable power of shutting the gate of freedom, or opening it on what terms they please in every particular case; acting herein not only at their discretion, but without any fixed rules or principles to govern that discretion, or any account rendered of the grounds on which they exercise it; and consequently without the review of any other human power.

As this may seem very extraordinary, I refer the reader for full proof of it to the official returns of Lieutenant Governor Murray himself; contained in parliamentary papers of the last session.*

* See papers marked Slave Population in the West India Colonies, No.2. printed by order of the House of Commons, of March 4th, 1823, page 75 to 81.
The governor, it would appear, had some apprehension that his heavy impositions upon freedom would not be so popular here, as with his brother planters of Demerara; for he sets out with remarking to Earl Bathurst, that his lordship would perceive a "considerable gradually operating reduction in the "sums required to be deposited by those who apply for the "manumission of slaves," (why the term deposited is used here, I cannot tell; it clearly appears from what follows, that the money is not a pledge, but an absolute and final payment.) "Freedom," he says, "is often given gratis, or for small "deposits, when the reward of distinguished merit, or ob- "tained by parties who have lived in reputed freedom with "fair characters." (It will appear on examination of the returns, that the gratis manumissions are 19 out of 479, and the smallest sum paid in any case is 250 gilders). He adds, "large sums are sometimes imposed after mature de- "liberation on the situation of the slave, the circumstances "of those who apply on their behalf, and not unfrequently "their irregular connection with them."

That large sums are imposed is too clear; but as to the reasons, the returns referred to add nothing to this very convenient and adroit generality. We find in them very frequently such enormous sums as 1000, 2000, and even in one instance 3000 gilders, but never any explanation of the cause; and the description of the manumitted parties is often such as precludes the suspicion of the most specious of the general reasons insinuated by the governor, viz. demerit in those who are to have the benefit; very high sums appearing to have been exacted for the enfranchisement of children. Perhaps indeed some of these may have been what Governor Murray calls "irregular connexion," and his rigid morality may regard slavery as the just lot of Mulatto children on account of the sins of their parents. But Negro children also, it appears, have had their freedom taxed as heavily. I find, for instance, a negro woman, Nancy, and her four children*, assessed at 2000 gilders. In other countries cursed with slavery, and

* It is not expressly said in the returns, that the children were black; but that manumitted children are Mulattoes, is often carefully specified; and in no instance do we find any child described as a Negro, though many of them most probably were such.
even in some of the foreign colonies, her having bred and preserved such a family would have entitled her to freedom, not only without taxation, but without price; and without her owner's consent. Some of our own colonists have proposed to adopt such a rule as a means of promoting native population; and as to children, it is the sense of His Majesty's government and parliament, that their slavery by birth ought not hereafter to be permitted; but Governor Murray and his Court of Policy, it appears, are of a very different opinion.

Two extraordinary circumstances incidentally meet the eye in these Demerara returns, which, though not immediately in my present path, must not pass unnoticed. It appears that Indians are openly held in slavery in that colony; and that the local government not only permits this practice, (which is unknown in most of our islands, though countenanced in one or two of them by old and obsolete laws, and is an abuse peculiarly dangerous in a country that has Indian nations on its frontier), but has publicly recognized it as legal; for I find two Indian women with their children, expressly described as such, among the slaves manumitted; and 500 gilders were charged by the governor and Court of Policy in one of those cases for leave to terminate the wrong.

Here I trust at least we shall not be told, as in the case of the African Slave Trade, that parliament was an accomplice. If we are, let the act be pointed out that has given any sanction to the slavery of Indians.

The other novelty is that by a resolution of the Court of Policy, persons who had lived ten years and upwards in a reputed state of freedom, were compelled to take out letters of manumission from that court, and pay 250 gilders each for them. Upon what pretence, or under what circumstances, this was done, we are not told; but on the face of it the transaction was one that much demands explanation.

But there is a wider difficulty here which I must confess myself utterly unable to solve; and that is to discover by what, law, or upon what constitutional principle, the governor or Court of Policy, or both, can impose taxes or make laws in that colony, even for purposes less important than that of restraining manumissions. I am aware that the Dutch laws are retained there, and that under them the Court of Policy had
power to regulate a few petty details of police; but unless I greatly mistake and forget, the power of municipal legislation was reserved to the directors of the Dutch West India Company, in strict subordination to the States General; and I dare venture to affirm, that no authority within the colony extended either in theory or practice, under the Dutch sovereignty, to any such high acts of state as are now, it seems, made to emanate from this court or board of police. As to the governors, their powers in the Dutch colonies were proverbially narrow. Even the fiscals could control them in many of their executive functions.

It is not pretended by these new-fangled legislators, that any annuity is given to the freed persons in return for the sums exacted; or that they have the benefit alleged by the Jamaica Report, of being kept from a dependency, when disabled and indigent, on parish relief. In these points Governor Murray and his board of police are less scrupulous than the insular assemblies. They take the money, and neither give, nor pretend to give, any thing in return. The governor indeed tells us that "these sums are thrown into the poor's " fund, upon which they (the enfranchised persons) have an " indisputable claim, when circumstances compel them to seek " assistance." So has every white pauper in the colony. So would these legislators themselves, if they fell into want. They might as reasonably, therefore, take two or three thousand gilders out of the pockets of individuals of their own privileged class, and excuse the robbery by the same plea, of their having cast the money into the Poor's Fund. Governor Murray himself shews by what follows, that neither individual, nor general benefit redounds to the manumitted, when paupers, in respect of these forced contributions; because supposing that free blacks and mulattoes, when in want, are in fact supported from the Poor Fund (which is more than the governor asserts), they would, it must be concluded, have been so, if manumission fines had never been paid; for he adds, "this fund is swelled from other powerful sources, " and when these prove insufficient, the deficiency is made " up from the public purse."

I must not dismiss this subject, without noticing with just applause a colony which has never been seduced by bad
example in any manner to restrain or discourage manumissions; but has kept its statute-book unstained by these shameful innovations, from their first origin to the present hour. It is to the legislature of Antigua, the same which recently attempted to secure its slaves from cruel transportations, that this further honourable distinction belongs; and we may trace in it that superiority of intelligence, as well as liberality over their neighbours, which the gentlemen of that island are generally allowed to possess. It is in consequence of their comprising a far greater portion of resident proprietors; which is itself, I regret to say, a consequence of the more early and general decline of the island in its agricultural wealth. Antigua has of late years had peculiar temptations to follow the general example, if the increase of the free coloured people had indeed been a public evil, which narrow-minded white colonists are such miserable politicians as to contend; for a natural effect of the distinction here noticed, was that slaves were brought from other islands to be manumitted there; and many of them, no doubt, remained to settle in a place where their freedom, when so obtained, was more secure than in the islands they had left. But the leading minds in this colony were too enlightened, not to perceive that this, instead of an inconvenience, was an important public benent.

It would not have so been, let me add, if the general character of free negroes and mulattoes were such as their enemies pretend, and if in consequence their poor rates had been increased; for Antigua could ill bear any aggravation of such burthens; but the members of its legislature well know the utter falsehood of pretences upon which other colonies had acted, and British statesmen been misled. They therefore continued to keep wide open the door of legal enfranchisement, to foreign as well as native slaves; and the happy consequence has been that in ten years the free black and coloured population of the island has been nearly doubled.*

* In 1811 it was 2185. In 1821 it had advanced to 3895, being an increase of 1710 in ten years. (See the same Parliamentary Papers of March 4, 1823, before referred to, p. 47.) The number of manumissions during the same period was 1497; and during the fourteen years comprized
If the absurd political jealousy under pretence of which our white colonists would mask their hatred and oppression of this class, a class that in fact constitutes the main strength and security of every West Indian island, had been sincere, or rested on any solid foundation, that feeling could nowhere have been more natural than in Antigua; for the free coloured population exceeds the white in the proportion of nearly two to one; but the leading inhabitants of that colony have for a long time past been too rational to entertain, and too honest to pretend, any alarm on that account.

The colony of the Bahamas deserves also to be noticed with commendatory distinction in this branch of my subject; for though its legislature had laid a tax of 90l. currency on manumissions in 1784, the odious innovation it seems was so unpopular, that the act never was carried into execution, and was repealed in 1796; since which period no tax or other restraint upon enfranchisement has been imposed in that colony.*

The example of the Bahamas may therefore be fairly cited, like that of Antigua and of the other colonies, who either never have imposed, or have repealed these taxes, in proof that the pretended principles of policy to which they have been ascribed, cannot stand the test of reason and experience. This practical testimony is at least as strong, if not stronger, at the Bahamas, than at Antigua; for in those

in the return was 1773, and the increase had been progressive; for in the first seven years of that period they were but 691; but in the last seven years 1082. (Same Papers, p. 49.)

* I do not take these facts from the late returns to parliament, by which it only appears that there is now no tax or fine on manumissions in the Bahamas, (see Papers entitled Slave Population in the West India Colonies, No. 5. Ho. of Com. 14th May, 1825,) but from a report of the Bahama Assembly, on the register-bill question, published with very angry comments, by its agent, Mr. Chalmers, in 1816. The assembly therein repelled with great warmth a charge supposed to have been made against it by the African Institution, in its report on the same question; and indignantly disclaimer the having concurred in this oppressive system. The institution having no previous information as to the practice, might naturally enough have concluded that a tax imposed by law, had actually been paid; though nothing was stated in its report inconsistent with the truth of the case as since stated by the assembly.
islands also, the amount of the free coloured population was pre-eminently large; and the spontaneous abrogation may be thought to speak more clearly than the non-adoption, of a law for checking its further increase, what were the matured opinions of those who have rejected the harsh policy in question. The report also tells us, that an attempt to revive the tax was ineffectual, after an experience of thirteen years had shown the effects of the repeal.

It is well worthy of remark, that the cases of Antigua, and the Bahamas, also strongly illustrate the important truth that the prevalence of individual manumissions tends greatly to meliorate the treatment of those who remain in slavery; and thus by a twofold progress of benignity, to wear out, in the safest and happiest way, the institution itself; for in these two colonies the slaves, instead of diminishing, have largely augmented their numbers by a favourable balance between mortality and native increase; though this happy distinction, I admit, is chiefly to be ascribed in the Bahamas to their failure as a sugar colony, and consequent disuse of the destructive method of driving. *

* For abundant testimony as to the rapid increase of native slaves in the Bahamas, see Appendix, No. III. The actual numbers have indeed since the period of that very satisfactory evidence been deplorably and cruelly diminished by the intercolonial slave trade; for it appears by the printed returns of this year, that in six years, from 1816 to 1822, both inclusive, no less than 1777 have been transported to other colonies. (See Population Returns, No. 3. of Papers Ho. Com. May 14. 1823.) Still, however, the prolific effects of adequate sustenance without excess of labour are seen in the remainder; for on examination of these returns it will be found that between the 1st of January, 1819, and the 1st of January, 1822, the numbers of the exported were 960, and of the manumitted 177, making together 1137; which therefore, as it is stated that there were none imported, would have been the actual loss of numbers, supposing the births and deaths to have been equal during that period; but the whole number of slaves on the 1st January, 1819, was 11,155, and on the 1st January, 1822, there remained 10,649; the loss therefore was only 506, and consequently the excess of births beyond deaths must have been 631 in three years.

The increase of native slave population at Antigua has long been notorious; and in the Parliamentary Papers of this year, Sir B. D'Urban the governor shows that notwithstanding an excess of exports beyond imports of 120 slaves, the increase from 1811 to 1821 had been 757. (Slave Population, No. 2. Papers of March 4, 1825. p. 47.) But the governor, though
Let not the reader suppose that I have exhausted this interesting subject, or availed myself of all the arguments that I might have derived from reason or authority in condemnation of those arbitrary laws, by which manumissions have been discouraged or restrained. I was prepared to show by a detailed review of their most specious provisions, the inconsistency and insincerity of the pretences on which they were founded; and had printed much to that effect. But I now suppress it, for the reasons already assigned; namely, the total repeal of those laws by most of the assemblies that had adopted them, which I collect from the recent returns of manumissions from various islands, and from the Grenada act of repeal, which I find among the slave acts presented to parliament; and in the hope that this laudable example has been or soon will be generally followed. That Demerara and other colonies in which the king has legislative power, will not be longer suffered in this or other cases to remain laudably desirous of pointing out this creditable fact, seems by an oversight to have stated the increase far too low; as he has taken no credit for the manumissions, which appear (p. 49.) to have amounted during the same period to no less than 1497; and though many of these freed persons were probably brought from other islands for the benefit of having their manumissions executed, and recorded tax free in Antigua, and having been previously, perhaps, put actually in possession of their freedom, were probably not imported as slaves; yet as the free coloured class was increased during the same period by 1710, a large proportion of these manumitted persons had doubtless belonged to the slave population of Antigua before their enfranchisement. Allowing liberally for the native increase among the free during the same period, it may be reasonably concluded, that among the slaves it was at least double the amount of the governor's imperfect estimate.

* See this Act among the Papers of 7th June, 1819, p. 24. It is a reformation entirely satisfactory. It fairly recites that the tax discouraged the manumission of deserving slaves, and not only therefore wholly repeals it, but equitably gives validity to all manumissions granted since the first imposition of the tax in December, 1797, upon which the tax had not been paid. Most willingly do I give to the Grenada legislature the applause it deserves for this right and manly conduct; and most gladly should I have consigned to the flames the whole of this review of the colonial slave laws, if I had found in other cases, and in all the colonies, the same disposition to wipe off the reproach to which those laws, whether old or recent, had exposed them.
behind islands governed by assemblies in the course of improvement, and to persist, upon pretences which they have re-pudiated, in oppressions, which they have abandoned, it would be wronging the government, after its late declarations in parliament, to doubt. But while a single colony, and especially the most important and influential of our islands, persists in hostility to enfranchisement, I could not consistently with the most important of the principles maintained in this work, say less than I have done on the subject. Other laws may needlessly aggravate the acknowledged evil of slavery, but these anti-manumission laws tend to its perpetuity; and obstruct the very best and most unobjectionable means of its progressive termination. Till the false and fatal principle that the increase of the free coloured class is an evil, shall be renounced, and its reverse adopted as a universal maxim of colonial jurisprudence, the corner-stone of that wise and beneficent system on which the British government and parliament now stands pledged to act will not be securely laid.*

SECTION IX.

ENFRANCHISEMENT BY PUBLIC AUTHORITY.

The other general source of enfranchisement which I distinguished, emancipation of slaves by the sovereign power, for meritorious services to the state, was very common in Greece, in Rome, and other ancient nations. If a slave was instrumental in the discovery or suppression of a public crime, or distinguished himself by fidelity in civil convulsions, freedom was the rich reward.

* I must avoid digressions as much as possible; but in this place I ought to remark, that the false principle here condemned has not only been assumed by the assemblies, but, I fear, tacitly admitted by some acts of his Majesty's government. This false principle is the only ground that I can imagine, for omitting any where that part of the Order in Council for registering the slaves in Trinidad, which entitles unregistered negroes and mulattoes to freedom; a departure from the plan, in a point essential to its principle, and still more to its effectual execution. This omission would alone suffice to frustrate the whole effect of the register laws. (See the review of these laws in a Report of the African Institution, to which I have before referred.)
The same benefit, for the most part, was attached to military service, whenever such an emergency arose as induced the government to arm any portion of the slaves.

The reasons, no doubt, partly were, that their courage was likely to be animated, and their loyalty assured, by such liberality. But there were also more generous motives. "It was thought unreasonable that such as hazarded their lives in defence of their country's liberty, should themselves groan under the heavy yoke of slavery; and be deprived of even the smallest part of that blessing, which was, in a great measure, owing to their loyalty and courage." *

When the Spartans were endangered by the Theban or Arcadian confederacy, they made proclamation, that able-bodied Helots, who would take arms and faithfully exert themselves in the defence of their country, should be rewarded with freedom; and more than 6000 of them were accordingly enrolled and enfranchised. †

In Rome, no slave could lawfully be enrolled or enlist himself as a soldier. Enfranchisement, therefore, was a necessary previous condition to lawful military service; and it was found necessary to restrain, by capital punishment, men of the servile class from enlisting themselves in the army under pretence of their being free, in order in that mode fraudulently to obtain their liberty. ‡

It would appear, even, that the main reason why enrolment on the census amounted to full manumission was, that it gave to the party the right, and subjected him to the obligation, of serving as a soldier. This privilege and duty, formed, as it were, the test of the free condition; so that a slave, if put on the census, unless he refused to be enrolled, and take the military oath when called upon, was for ever free; such a refusal, on the other hand, by a free person, reduced him to the con-

* Archbishop Potter's Grecian Antiquities, vol. i. cap. 10.
† Mitford's Hist. of Greece, vol. vi. cap. 27. sect. 3.
‡ The offence must have been common enough to require such severity; for even the good Emperor Trajan refused to admit a merciful legal distinction upon that law, in favour of two men convicted upon it before Pliny the pro-consul, when he was consulted by that magistrate. He decided by his rescript, that if the men had willingly enlisted, they should suffer. Plin. Epist. lib. 10. epist. 58. and 59.
Enfranchisement

dition of a slave; or rather, as Cicero puts it, induced a presumption that he was not actually free.*

When, after the fatal battle of Cannae, the Romans found a scarcity of freemen to recruit their armies, the new expedient was resorted to of enrolling their slaves as such. Eight thousand of the ablest-bodied men of that class were selected, and were, without enfranchisement, armed and sent to the field, where they performed the most faithful and signal services; more especially at the battle of Beneventum, where the pro-consul, Sempronius Gracchus, obtained the victory by their ardent bravery alone; and as the just and promised reward for it, he afterwards, by authority of the senate, gave them their freedom. †

It is worthy of remark, that in this first deviation from the general practice, the slaves were not enrolled by compulsion, though their masters concurred in the innovation, and afterwards received their value from the public treasury. The senate, deeming it unjust to compel them to fight for the defence of Roman liberty, without first enabling them by enfranchisement to partake of its benefits, ascertained by individual applications to the men, their willingness to serve, before they were enlisted; and they bore the distinguishing name of Volones, or Volunteers, to exclude the notion of military duties having been forcibly imposed upon them without a release from slavery.

There was certainly much liberality in this, at a time of such extreme pressure, when freemen were not only compelled to serve as usual, but the ordinary exemptions of non-age and superannuation were in their case disregarded. ‡

* Jam populus cum eum vendidit qui miles factus non est, non adimit libertatem; sed judicat non esse eum liberum, qui ut liber sit adire periculum noluit: cum autem incensum vendit, hoc judicat, cum is qui in servitute justa fuerit censu liberetur, eum qui cum liber esset censeri noluerit ipsum sibi libertatem abjudicasse. (Cic. Orat. pro Cascina.)

† The account which Livy gives of the conduct of these troops is very particular, curious, and interesting; and might furnish an instructive lesson to those who have formed inadequate notions of the miseries of private bondage, and the blessing of enfranchisement. (Lib. 24. cap. 14, 15, 16.)

‡ It seems probable that the reason for not enfranchising these slaves prior to their enrolment, was the difficulty of then immediately paying their
There has been no opportunity of comparing, in this point of military service by slaves, the feelings of our colonial assemblies with those of Pagan governments, till our own extraordinary times. The expedient of arming negro slaves, for the defence of our West India colonies, would have been regarded as too dangerous and desperate to be adopted or proposed, on any emergency that had ever arisen there before the late revolutionary wars with France. Certain conquest by a hostile European power would have been deemed a less evil by far than the calling forth such a resource. Negroes, therefore, were never taken from slavery to bear arms; though the free coloured people have long formed the chief strength of the colonial militia.

But when we had to deal with an enemy who did not scruple to use black troops in the Antilles, for the purposes of offensive war, and who, by the general enfranchisement of the slaves in his colonies, was able to employ such formidable means of annoyance to any extent that his maritime opportunities might permit, the assemblies felt it necessary to depart widely from their former maxims.

Here the feelings of Christian and English slave masters were brought into comparison with those of Pagan antiquity; and the comparison results as usual much to the disadvantage of the former. The assemblies, in calling to their aid that wretched order of men whom they have so grossly degraded and oppressed, did not think it necessary, like the Spartans with their Helots, or the Romans with their domestic slaves, to make the service a matter of choice by the negroes; much less to reward them with freedom. They found a shorter and cheaper course. Their expedient was to treat with the masters, or make compulsory draughts from the plantations; and when the important service was performed, to restore the sur-

value to the master; for it appears that the masters of those who were enfranchised, after the battle of Beneventum, dispensed with such payment till the end of the war, on account of the exhausted state of the treasury; and the senate, about the same time, declined to redeem the Roman citizens prisoners to Hanibal, partly on account of the great pecuniary distress then felt by the state. (Liv. lib. 23. and 24.)
vivors of their sable defenders to the gang, to work again under the whip; paying the private owners the value of the killed and wounded.*

These black corps acted everywhere unexceptionably well; and materially contributed to the security of several of our islands. The invasions which they were immediately destined to repel did not take place; but there is reason to believe, that Victor Hugues would have attempted a coup-de-main at St. Christopher, and other colonies, if he had not been aware of this defensive expedient, of which he well knew the force; for the dreadful ravages of the yellow fever, and the fatal war in St. Domingo, had together so far drained our numerous windward and leeward islands of European garrisons, as to leave them in that respect quite defenceless; and the blockade of Guadaloupe was found impotent to prevent the entry or departure of the numerous vessels which that enterprising French governor possessed.

Accordingly, after the peace of Amiens, it was felt and acknowledged by the assemblies, that their black troops had probably saved them from conquest, and from a revolution of the most terrible kind. What was their reward? In St. Christopher, they were thanked by the assembly for their good conduct, and complimented with the property of their uniforms; but they were sent back to the plantations, and to the discipline of the cart-whip for life; and they soon after, as we

* See an act of Grenada of 1795, as a fair sample of such colonial liberality and justice.

After providing for the enrolment of as many slaves as would increase the number already enrolled for military service to 500, and for the valuation of them between the master and the public, it enacts that "the owners of all such slaves shall be entitled to receive from the public treasury of this island, the value of every slave employed in the public service, who shall not be restored unhurt to his owner, unless such slave shall voluntarily desert to the enemy;" and "that the owner of every slave enlisted and enrolled, shall be entitled to claim from the public, hire at the rate of two shillings a day for each slave, during the time such slave shall continue enlisted and enrolled, &c." (Act of Greneda, No. 75. in Mr. Smith's edition.)

This black soldiery served most faithfully, and probably saved the island from revolution, as well as conquest; in return for which, the promised rewards were faithfully paid,—to their masters.
have seen, had the door of voluntary enfranchisement by their masters effectually barred against them, by law.

The colony of Demerara went, it is said, still further; giving as a reward the benefit of transportation. I do not vouch for the truth of the statement; but it was reported that the colony generously presented to its British governor, for his private benefit, when he departed to another part of the West Indies, all the negroes which had been trained to arms. If so, of course they lost their wives and children, for saving, perhaps, those of their masters.

What, if anything, was done by way of reward in other colonies where the same new expedient had been resorted to, I am not particularly informed; but I believe, that not a single black soldier, raised by the assemblies, received that benefit of enfranchisement which almost universally belonged to military character when imparted to the less unfortunate slaves of ancient Pagan nations. If I am mistaken, the fact can be easily shown, by reference to the act, or other public authority, under which they were purchased and manumitted.

Our colonies, however, may quote one modern precedent, with which I admit their treatment of their black protectors may be compared to their advantage.

In St. Domingo, during the civil war between the free coloured people and the whites, and prior to the general insurrection of the slaves, a body of the latter, armed by their own masters of the mulatto party, had performed most faithful and important services; and had been very useful to the common cause of both parties, when they were mutually annoyed by partial insurrections of the slaves in the south, reducing their unruly brethren to submission, or chasing them into the mountainous country. They were called, for their exemplary fidelity and courage, the black Swiss; and freedom was from the first their promised reward. Yet, upon the short-lived agreement or concordat between the whites of Port-au-Prince on the one side, and the mulattoes, to whom these Swiss belonged, on the other, it was a shocking part of the compact, stipulated by the whites, and to which the mulattoes, after some reluctance, had the baseness to agree, that the Swiss negroes should by surprise and violence be disarmed, and sent away from the island, to avoid the danger of leaving
Enfranchisement them in freedom there with their acquired military skill and experience.*

It is due to the British government to say, that it has not, in this instance, so far adopted the illiberal feelings of the colonial authorities, as to inlist negroes in the military service of the state, without releasing them from the yoke of private bondage. In raising for the first time regular black corps, or West India regiments, as they are called, for the defence of our islands during the late wars with France, the men were purchased from their masters; but it was understood, if not expressly ordained or declared, that their servile condition was converted by their enlistment into civil liberty; subject only to the same military regimen as the mutiny acts have equally imposed on the British soldier: and in consequence, when some of those corps were disbanded at the peace, the men were not sold, or replaced in a state of slavery, but left at liberty to provide as they thought fit for their own subsistence. I am sorry to add, that there is nevertheless great reason to fear in respect of such of them as were disbanded in the West Indies, that many of them have been reduced to slavery again, having fallen victims to those oppressive police laws to which I have adverted. They have been taken up and sent to pri-

* Rapport sur les Troubles de Saint Domingue, tome iii. p. 64, &c.

It appears, from the same report, and from public documents therein cited, that these unfortunate men, not being received at Jamaica, were brought back and confined in chains on ship-board at Cape Nichola Mole, till a party of white ruffians went on board and butchered sixty of them; and of the rest the greater part miserably perished in their close confinement; so that only eighteen out of two hundred which had been embarked on board a single ship, remained to be delivered by the French commissioners on their arrival in 1795.

My reason for here selecting this atrocity from the long and horrible catalogue of crimes, many of them still more diabolical, which are furnished by the historians of the revolutions in St. Domingo, is, that its sole motive was hostility to freedom, the reward of military service. The deadly feud of the mulattoes and whites had no share in it; for the black Swiss corps was sacrificed as the first-fruits of their solemn, though short-lived, reconciliation; and avowedly on a cold-blooded principle of policy. I mean as far as relates to the original act of perfidy, from which the rest naturally followed; though the subsequent massacre was the act of the white monsters alone.
son as runaway slaves, and have been sold, I fear, in many cases, upon the presumption of law arising from their colour, because they could not, within the short time limited by those laws, make proof of their freedom. This is not mere conjecture from the probability of such occurrences; since it appears, as was before observed, from advertisements in the Colonial Gazettes, that negroes taken up on suspicion of being runaways, have asserted themselves to have belonged to, and been discharged from, a specified West Indian regiment, and that they were nevertheless to be sold at a given day unless they should be sooner claimed by a private owner, or make proof that they were free. As such assertions might easily have been brought to the test of official enquiry by the local government, what excuse can be offered for adhering in these cases to the rule of these barbarous laws, and selling the unfortunate men because they had not the means of sustaining in every island they might visit, and in their helpless situation as prisoners, the burden of proof most unjustly cast upon them?

In other respects the treatment of these black corps furnishes, I lament to say, a strong illustration of the baneful effects of colonial prejudices, and of colonial influence in our national councils. Never, perhaps, did any troops more fully or more faithfully accomplish the important purposes for which they were raised. Their conduct was extolled by almost every General under whom they were engaged in active service; and in garrison their usefulness was found still greater than in the field. They rescued our European troops from duties peculiarly painful and pernicious to them in the torrid zone; and fatigue parties, as they were emphatically called, were exclusively composed of drafts from the black corps, whenever they were at hand. But they would have been inestimable if they had only served to diminish the number of our brave soldiers transported to, and stationed in, that fatal climate. It would, I doubt not, be an estimate below the truth to say that every black soldier employed in the West Indies saves, in five years, the loss of two European lives at least to the British army.

There was another salutary tendency of this new military system in the colonies, of which every reader that admits
the general principles maintained in this work will feel the value. It could not fail to diminish the cruel popular contempt in which this unfortunate part of the human species is held there. But this was precisely the reason why colonial prejudices strongly revolted against it; and why the government of the mother-country was assailed with false grounds of alarm, and with all those means of private solicitation and influence which the colonial agents, committees, and private proprietors, are accustomed to employ too successfully in the departments of state, until they succeeded in getting a large part of the black corps disbanded. As a further concession to their affected, or idle terrors, some of the regiments were transported to Africa, to be disbanded there; an ungrateful and cruel return for their faithful services; because most of them probably left behind wives and children and other near connections, from whom they were thus separated for ever.

The main pretence for this dislike to the black troops was, that they might in cases of insurrection probably take part with the slaves: but neither reason nor experience give any countenance to such a fear. The principles which guard military fidelity in regular armies, are found to be stronger than the sympathies of a common origin, class, or complexion; else what would long since have been the fate of our Indian empire; or how could it ever have been raised? The black regiments still in service in the West Indies certainly have had their fidelity put to the proof by such treatment of their late comrades; yet what has been their conduct? In the insurrection at Barbadoes, and the recent one at Demerara, they were the troops put in advance, and by whose fire the insurgents were dispersed.* It would be absurd, indeed, to speak of this in any other view as military merit; for it was, to be sure, an easy service to fire upon and kill multitudes of

* In these and other cases in which the black corps have been employed, the English public for the most part is not apprised of their services. The term "West India regiments" is not generally understood in this country to mean corps in which all the privates are negroes; and it would be but fair, therefore, in commendatory official accounts of their services, to describe them as black troops.
unarmed men, who offered no resistance *; but their feelings, whether as soldiers or Africans, were not on that account the less likely to revolt at such employment, if their discipline and sense of military duty had not insured obedience.

It may be inferred from the same facts, and many others, that the jealousy which the white colonists profess of such defenders, is in great measure a mere cloak for their proud contempt and antipathy towards the African race. They have long professed in every colony the same apprehension of the free coloured people; yet they compel them all to serve in the militia; and in the hour of danger, these, like the regular black corps, are so far from being thought disaffected, that in the most delicate and critical conjunctures they are always the first to be employed.

These remarks would naturally lead me to what was meant to form a sequel to this part of my work.

To the law of slavery, I meant to add some account of the legal condition of that important class, the free blacks and mulattoes, and such other descendants of negroes as are comprised under the general description of "free people of colour." It is a subject of great importance, especially at the present juncture, and has a close relation to the main object of this work; for the state of this class in point of law in most of our colonies, as well as its practical degradation in all, would clearly illustrate the true causes of much that aggravates the slavery of the West Indies, and opposes its effectual reformation by any interior legislature. Here, the selfish views of white oligarchists, and the absurd contempt for a black or yellow skin, are not disguised, as in the case of slavery, by any pretence of necessity arising from the nature of the harsh system itself, or of difficulty or danger in the work of reformation; but the plainest principles of policy and justice are wantonly violated, merely that the profitable privileges and pre-eminence of the whites may not be surrendered or abridged.

If the advocates of the slaves were really actuated by such wicked and insane motives as the planters preposterously

* All accounts agree that at Demerara at least two hundred of the insurgents, or the unarmed rabble so called, were killed on the spot, while not a man was killed, or I think wounded, on the other side.
impute to them; if they desired, not the peacable and beneficent relief of those unfortunate fellow-beings, but insurrections and revolutions in the colonies, the oppression of the free coloured people is an abuse which they would be far from wishing to correct. The disaffection and revolt of this powerful class, far outnumbering the whites, as they do in almost every island, and trained as all their adult males are to the use of arms, would be the most effectual means of revolution that could possibly be employed; and on the other hand, while the free coloured population lends its faithful support to the government, it may safely be affirmed that no efforts of the slaves to throw off the yoke under which they groan can possibly succeed. The case of St. Domingo, when fairly stated, furnishes strong demonstration of these truths. If the free coloured people had not been persecuted to a degree beyond endurance, the insurrection of the slaves would have been prevented, or easily suppressed; and had not that persecution been renewed, with the most barbarous excesses, under Leclerc and Rochambeau, the island might not have been ultimately lost to France. In these views and others, the friends of the slaves prove themselves also the friends of peace, when they advocate, as they have always been ready to do, measures of liberal concession and conciliation towards this powerful middle class; and the white colonists in opposing such measures, show an infatuated disregard to their own security, not less striking than their blind and long hostility to their own interests, in their fatal protraction of the slave trade.

But though, for these reasons, an exposure of the legal oppressions under which the free coloured people in the colonies labour might possibly be useful, and is not irrelevant to an account of that slavery from which they have been imperfectly released; it would increase materially the bulk of a volume, already too large, and much longer delay its publication.

I also designed and promised to add a chapter to this division of my work, on those recent ostensible reformations of slavery, called the Meliorating Acts; but my intended strictures on them have been partly anticipated, under the different titles to which many of their provisions relate; and I perceive, on fuller consideration, that a more comprehensive
review of them here would be premature; because, until I have submitted to the reader that practical account of slavery, which is to form the second division of this work, a considerable part of the provisions of those acts, and of my remarks upon them, could not well be understood: those regulations, for instance, which relate to the ordinary economy and discipline of a sugar estate. I find it most convenient, therefore, or rather necessary, to reserve what remains of that subject for the conclusion of my work.

I am the better reconciled to this departure from my first arrangement, because it is said that some of the assemblies are framing, and likely soon to transmit for the royal assent, new acts, on which they have been deliberating, in compliance with the sense of parliament and his Majesty’s government, for the improvement of their slave codes. May they prove of a different character from most of those which I have had occasion to notice! But whether satisfactory and efficient, or the reverse, they are likely to alter materially my field of observation; and might make any further present remarks, in a great degree, out of place or superfluous.

Meantime, it will be doing no injustice to the colonies to defer the notice of such specious provisions of those meliorating acts already presented to parliament, as have not naturally fallen under review in the preceding sheets; since their inefficiency, and the utter neglect of them in practice, has, I trust, been sufficiently shown to satisfy the reader as to their general character and effect. * Indeed, while the assemblies adhere to the absolute rejection of the testimony of slaves, and by restoring them to the power of a convicted master, make it fatal to them to complain, even when free witnesses can be found to support them; it is manifest that all protecting laws must be practically useless. The rule of evidence alone, we have seen, is admitted by colonial legislators themselves, and by their most zealous friends, to produce this effect; and therefore, while demonstrating on other grounds in my progress, the futility of particular enactments, I have felt

* See pages 99, 100, 169, 169, 170, &c. Many other authorities might be cited, e.g. the governor of Grenada confessed the boasted meliorating act of that island to have been “a dead letter.” (Papers of 12th July, 1815, p. 147.)
some doubt whether I was not needlessly trespassing on the
time and patience of my readers.*

* Some apology, however, may be thought proper for submitting this
part of my work to the public, before my proposed plan is completed, by
an account of the state of slavery in its practical character. What the
condition of the negro slaves on the plantations is in point of actual treat-
ment, though incidentally noticed in some particulars, is a subject that for
the most part yet remains to be opened; and is certainly not less important
than any of those which I have already discussed. But there is this dif-
ference, that while many accounts of the practical case are already before
the public, a particular and systematical view of the slave codes, is a desir-
eratum hitherto unsupplied; a consideration that might alone, perhaps,
suffice to justify my publishing this first division of my work, without the
great loss of time that would be incurred if I should wait for the com-
pletion of the other; especially as it is understood that applications for the
amendment of many of the slave laws will soon come under the consider-
ation of parliament. Besides, it is my earnest wish to engage the attention
of the English lawyer, who would not feel the same professional interest in
the intended sequel of my work. It shall nevertheless appear in a second
volume, unless speedy and substantial reformation of the state shall happily
supersede the necessity of these discussions, before my time and strength
enable me, compatibly with other duties, to redeem this pledge, in an
adequate and satisfactory way.

Meantime, if any reader desires to be better informed what are the prac-
tical fruits of such a shocking institution, as is here developed, I would
refer him to a late work, called Negro Slavery, &c. published by Hatchard
and Son. I would also wish to refer him to a publication of the late
Reverend James Ramsay, on the Treatment and Conversion of Negro Slaves;
but this work I fear is become too scarce to be easily procured, unless from
the libraries of gentlemen, who were the early advocates and promoters of
the abolition. Nor would I wish that they should resort for information
solely to such writers as were inimical to the system they described, and
whose object was to procure its reformation by law. On the contrary,
there is no account of the slavery of the sugar colonies, that I would so
much desire to put into the hands of intelligent and reflecting men, as a
publication often cited in this work, Practical Rules for the Management
and Medical Treatment of Negro Slaves in the Sugar Colonies, by the late
Doctor Collins of Saint Vincent.

This work also, I fear, cannot now easily be obtained from the booksellers.
If West India proprietors were as intent on promoting the preservation
and well-being of their slaves as they ought and profess to be, the book would
not have been suffered to be out of print; but successive editions would have
been demanded, that a copy of it might be put into the hands of every West
India attorney, manager, and overseer; for it is a treasury of exact in-
formation, and valuable advice, solely designed for their and the owners'
assistance in the most important part of their functions, now rendered more
Here, therefore, I shall close the first part of my work, the Delineation of Colonial Slavery, as it exists in point of Law.

important still than when the work was published, by the abolition of the slave trade, namely, the watching over and improving the treatment of the plantation slaves, in all points that affect their health, their longevity, and native increase.

Dr. Collins possessed in an extraordinary degree every possible qualification for such a work. He was a most able and experienced planter, who had resided, I think, above twenty years in the West Indies; and had raised an ample fortune, by his skill and assiduity in the management of his own sugar estates. He was also a very eminent medical practitioner; and had of course in that character the best opportunities of knowing what the ordinary treatment of slaves was on the estates of other planters, as well as on his own. He was moreover held in very general esteem as a gentleman, among the West Indian proprietors and merchants in England, and had made himself peculiarly acceptable to them, as an able and zealous apologist of the slave trade; nor did he quite depart from the character of their partisan in publishing the work referred to; for his remarks on such practices as he was obliged to disapprove, for the sake of suggesting the proper means of their correction, were not the willing reproofs of an enemy, but the tender and extenuating suggestions of a friend. He was far from meaning to increase the public odium of a system, in the administration of which he had been so deeply and successfully engaged.

Why then should Doctor Collins’s Essay be neglected by the conductors and defenders of that system; and cited by its opponents? For this plain reason; because from the object of the work the author was under the necessity of noticing, however tenderly, those ordinary abuses in the exercise of the master’s power, the existence of which the colonial party in a controversy before the English public finds it most convenient to deny. He could not, for instance, give the necessary cautions to managers against the partialities, and severities, and indiscriminate coercions of the drivers, and point out their cruel and destructive effects, without recognizing the practice of driving, and that the formidable discipline of the cart-whip over slaves of both sexes when working in the field, is committed to the discretionary use of those servile and degraded agents*; whereas some of the champions of the system here, had ventured to deny the existence of the driving method altogether, as the least scrupulous of them still have the effrontery to do; affirming at least that the tremendous whip with which the drivers are armed, is a mere ensign of office, never called into use. To be sure, Doctor Collins’s advice to his brother planters must in that case have been as preposterous, as if a man should address the parochial clergy in London, in respect of the summer procession of the charity children to St. Paul’s, and gravely exhort them to control the parish beadles in the cruel and partial use of their gilded poles, lest they should

* See pages 53 and 54. supra, and notes therein.
I have reviewed this most abject and pitiable state of man as I proposed, in all its principal relations, so far as express legislation, or customs received in the colonies as law, have determined its nature, and its incidents, its origin, and dissolution.

The imposition of slavery exclusively, on a particular race of foreign and uncivilised men, disgusting in their manners and persons, and low, from cruel neglect, in the intellectual scale, was the peculiarity of this law first noticed; and it obviously prepared for its unfortunate subjects a lot pre-eminently wretched, by diminishing the natural sympathies of the master, and of all the superior class, by extending to the bodily frame, and to the blood, the infamy of the servile condition; and making the very colour of the skin a badge of ineffable disgrace. But it was a still more fatal peculiarity of their destiny in the British colonies, to be abandoned not only to the private, but to the civil government of their masters; and to have no other lawgivers, than men deeply tinctured with local prejudices hostile to their race; men to whom their oppression also was profit, and their legal protection restraint.

Nor was the evil tendency of these causes counteracted by such ordinary political feelings, as have elsewhere sometimes lightened, or dissolved the chains of slavery; the fear of servile insurrections, or regard to the welfare of the state. The local governments, leaning on a powerful nation for defence, were in little danger from such convulsions as extreme oppression might excite; and felt no necessity of conciliating indiscriminately and unfairly urge on the poor boys and girls, knocking down some, and partially sparing others. In short, Doctor Collins, in giving sincere practical advice, was obliged to apply it to the true case, which could not suit the views of those who set up or maintain a false one.

For my part, though I am far from admitting that the practice of slavery is in general no worse than that Essay would lead the European reader to suppose it to be, I should be well content to rest the case of the plantation slaves, as between them and their masters, on the facts either expressly admitted in that work, or clearly deducible from it by every reasoning mind. I therefore regret that copies of it cannot be very easily obtained; and hope that some of those who share my opinions and feelings in this great cause will soon supply the defect, which I believe might now be done, without trespassing on any copyright, by publishing a new edition.
the most numerous class in their small communities, in order to strengthen themselves against their enemies, whether foreign or domestic. In war and in peace, the navy and army of Great Britain were their ever ready resource; and gave them full assurance that the worst effects of resistance among their slaves would be a little temporary mischief: while most culpably, and most calamitously for the unfortunate negroes, the mother-country took no concern in the moral character of those arbitrary laws which were framed under her authority, and upheld solely by her power. She was ever ready when called upon to employ her arms on the side of the masters, and to shed copiously the blood of the resisting slaves; but without any enquiry whatever into the merits of the quarrel. We have seen that until after the first applications to parliament for the abolition of the slave trade, the servile codes of the colonies, barbarous and unprecedented as they were, remained utterly unknown to the statesmen and legislators of England. They then began for the first time to enquire what those colonial institutions were, to support and enforce which, they had at different periods employed the British arms in the effusion of human blood.

Under such circumstances, it might have well been anticipated, that the slavery of our colonies would be found preeminently harsh; and the reader has accordingly found it to be a system, uniting in itself every species of oppression that has elsewhere existed under the sun; and with many aggravations as much beyond example as excuse.

In his relation to the master, the slave is degraded to the level of brutal and inanimate nature. He is mere property; and subjected as such to all the evils that the various rights annexed to property can entail, on a sensitive and rational being. He is removed from his home and native settlement, sold and exiled, bereft of his wife and children, and of all that makes existence dear to him, whenever the owner’s choice, or that of his unsatisfied creditors, may so ordain. He is demised, mortgaged, entailed, and in other modes subjected to the absolute government of a master, who has often but a small or temporary interest in his preservation and welfare; and who still oftener is unable to provide for his support. His labours, his subsistence, his discipline, and
his punishments, are all at the arbitrary discretion of his immediate rulers, who are for the most part only the mercenary delegates of an owner, resident in a distant land. But to these are added, subordinate delegates of fearful name, whose powers are awfully important, and susceptible of no effectual control. To the drivers is committed the distribution and exaction of the common labours of the field, their apportionment among the old and the young, the strong, and the feeble, the males, and the females; and to these lowest agents even, though negro slaves, unenlightened and unsoftened by religion, immoral and corrupt, bereft, by their degradation, of all liberal feelings, and hardened like public executioners by the habitual infliction of tortures penally imposed, the law permits the master to delegate his awful powers. To them, accordingly, he does delegate that which is practically the most formidable and pernicious of them all, the use of the driving whip.

Such as we have seen are the outlines of the private relation, as recognized and enforced by law.

In regard to the whole white population, except the owner and his agents, the negro slave stands as I have shown, in a predicament still more peculiar. He has no legal rights in his relations to them; or what is in effect the same, no remedies for wrongs received from them. His person, and such property as he is allowed by the master to possess, are virtually at their mercy. He can neither prosecute for, nor find evidence of his wrongs; nor exercise even, without subjecting himself to capital punishment, the right of self-defence. We have seen that those recent laws which affect to protect him in some degree against free strangers, and even against the master himself, are, with an unimportant exception or two, incapable of execution, and absolutely useless.

To the State, the slave also has his relations; for this chattel in the master’s hands, is recognized by the penal code, as a rational and deeply responsible being. I have, therefore, reviewed this relation also; and stated the condition of the colonial slaves in their character of subjects, or members of civil society. And what is the result? Of all the ordinary benefits of civil life, the slave would not have been more completely destitute in an African desert, than in a British colony.
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Not one of those benefits can be said to be effectually imparted to him, while many are totally and expressly denied. Even education, intellectual, moral, and religious, has been shamefully withheld. But to his crimes, on the other hand, the colonial lawgivers have by no means been inattentive. These have been punished with a severity unknown to the laws of the mother-country; and equally unknown in the same colonies when freemen are the delinquents. Numberless petty offences and trespasses, for which the latter are liable only to be fined, or to pay damages in a civil action, have been raised into felonies, when committed by a slave. Desertion, and other domestic offences, which are breaches of duty to the master alone, have been treated as atrocious crimes against the State, and visited with mutilations or death. Nay, these much injured beings have been capitaly punished for acts which the laws themselves have recognized as the direct and necessary fruits of the master’s oppression; and for which, he himself, notwithstanding, was made liable to no legal animadversion at all. Barbarous executions, shocking to nature, have been sanctioned by laws but very lately repealed or disused; and the dreadful punishment of the workhouse slave-chain has been recently devised, and is still inflicted, even during the whole life of the offending slave; and often for acts, in their nature innocent, and breaches alone of the harsh duties arising from his servile condition.

Nor is the poor slave less harshly distinguished in the judicial cognizance of his crimes. Modes of trial and conviction have been appointed for him, highly dangerous to the innocent; as well as inconsistent with the lenity and humane circumspection of English law,—qualities, which in the prosecution of free men in the same colonies, have not only been retained, but increased.

To finish this odious summary, the state, thus beyond example severe and cruel, is more loosely and indefensibly imposed, and with far more difficulty dissolved, than the bonds of slavery ever were in any other age or region. The presumption of law, placed every where else on the side of freedom, here universally weighs against it; while a despotic exclusion of all servile testimony makes the conflict of truth, with that harsh presumption, in most cases difficult or hope-
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less; and, lastly, the colonial legislatures, instead of encouraging voluntary manumissions, have laid restraints, by enormous taxes and other means, on that beneficent power of the master.

Such is the state in point of law, in which above seven hundred thousand men, women, and children, born, or living under the dominion of the British crown, are still held, by no better right than such as may be derived from the African slave trade; a trade solemnly proclaimed at our own instance by the European powers assembled in Congress, to be repugnant to "the principles of universal morals," and a scourge which had long "desolated Africa, degraded Europe, and "afflicted humanity." Such, nevertheless, is the state in which we retain the hapless victims of that guilty and opprobrious commerce; and such is their destined lot for life, and that of their innocent offspring.

But I invoke on their behalf the wisdom, and justice of parliament, and the voice of a generous people.