REASONS

FOR ESTABLISHING

A REGISTRY OF SLAVES

IN THE

BRITISH COLONIES:

BEING

A REPORT OF A COMMITTEE

OF THE

AFRICAN INSTITUTION.

PUBLISHED BY ORDER OF THAT SOCIETY.

LONDON:

PRINTED BY ELLERTON AND HENDERSON,
JOHNSON'S COURT, FLEET STREET.

SOLD BY J. HATCHARD, BOOKSELLER AND PUBLISHER,
190, PICCADILLY.

1815.

REASONS,

&c. &c.

SECTION I.

The fatal Effects of an illicit Importation of Slaves into the British Colonies.

IF there remained in this country any difference of opinion on the subject of the slave trade, in one point at least we should be unanimous. The Abolition, to produce any salutary effects, must be a reformation in practice, as well as in law.

Let it be supposed that negroes from Africa are clandestinely brought into our sugar islands and there held in slavery, and it will be plain, that, to the extent of this practice at least, the abolition laws are worse than useless.

The same crimes are committed, the same miseries are inflicted in Africa, and a still greater destruction of human life must take place on the passage, not only from the circuity which may be necessary to elude detection and seizure, but from the absence of those legislative regula-

tions which mitigated the letharious horrors of the voyage, while the commerce was permitted by law. The smuggler, having to risk the forfeiture of his ship as well as cargo, in a prohibited trade, will take care that the tonnage is as scantily proportioned as possible to the number of the captives on board. He has now the temptation of reducing by that means, not only the expense, but the legal perils of the adventure, in their proportions to his possible gains.

There is also less chance than before of his being restrained in such barbarous practices, either by humanity or prudence. The British slave trader cannot now be a man whom prejudice, early habit, and reputable example, may have seduced into crimes repugnant to his general principles and feelings, and who may therefore be expected to soften as much as possible, in their execution, the cruel methods of confinement and coercion which are essential to the trade; neither can we expect from him that cautious and calculating regard to self-interest, which may sometimes have supplied, in such points of conduct, the want of humanity, in a prudent and experienced trader.

The poor Africans who may now be carried into slavery by British hands, must be committed to men not only hardened by the habits of oppression, but reckless of public shame, contemptuous of all authority, human or divine, and

addicted to the most desperate hazards, for the sake of lawless gain.

It is, in a word, by *felons*, by the same description of characters that break into our houses at midnight, or rob us on the highway, that Africans smuggled by British subjects must now be dragged from their native shores, and carried across the Atlantic.

That one of the consequences will be increased severity of treatment, especially in respect of the close and crowded confinement on board, does not rest upon conjecture. It is fully attested by experience. The contraband slave traders of America notoriously crowd their ships beyond any example to be found in the same commerce while it was allowed by their laws.

Several shocking instances of this inhumanity have come under the cognizance of our prize courts. The same dreadful distinctions also have marked the cases of ships under Portuguese and Spanish colours, which have been proved, or reasonably presumed, to belong to British or American smugglers.

These, however, are not the only, nor the worst, evils which would flow from a contraband importation into our colonies. *It would be fatal to one of the dearest hopes of abolitionists, the melioration of the treatment of those unfortunate fellow-creatures, our West-Indian slaves.*

As it is impossible suddenly to break their

fetters, without danger of calamitous consequences, not only to their masters but themselves, we must suffer them to remain, for some considerable period, in their present state of bondage. The most extreme and abject slavery that ever degraded and cursed mankind, must yet continue to be the reproach of the freest and happiest empire that ever the sun beheld.

But who is there so dead to the impulse of human sympathy, who so regardless of the claims of justice and mercy, who so unconscious of his duties as an Englishman, a Christian, and a Man, as not to deplore that cruel necessity, and to desire to give to its duration the narrowest limit that humanity itself will allow?

Here there neither is, nor ever has been, any controversy in Parliament since the subject was first brought to its notice. All have professed to regard colonial slavery as an evil which we were bound to terminate, as a reproach which we were called on to wipe off, though the nature of the case would not permit us to do so in any but a slowly progressive course.

The advocates of a gradual abolition, and the few who refused even to prescribe any term to the slave trade, professed themselves to be as earnest in their desire to reform, by all safe means, and ultimately to abolish the slavery of our colonies, as Mr. Wilberforce himself. The only questions were, whether an immediate abolition

of the African slave trade was the best mean to that desirable end; and whether a temporary continuance of the trade was not even necessary to prepare the means of mitigating the labour, preserving the numbers, and ultimately improving into freedom the state of the colonial negroes.

The speeches of eminent statesmen, the writings of the colonial party, the votes and addresses of Parliament, and the official correspondence of ministers with the colonial governors, might all be appealed to in proof that such has always been the unanimity of sentiment on this very interesting head.

What are the means then that can be devised for the attainment of a reformation so dear to the wishes, and so necessary to the honour, of our country?

They can only be of two general kinds; compulsory or persuasive. Regarding the end as one which Parliament is bound, in some way, to attain, it must either be accomplished by direct legislation, accompanied with coercive sanctions, or by such parliamentary measures as may incline those who have the power of meliorating the lot of the slaves, to engage willingly in that beneficent work.

The mode of direct legislation, by Act of Parliament, would be obviously attended with great difficulties, and was therefore by all parties declined, or at least postponed. It was the unani-

mous opinion that the indirect course was the best, as far as the work was to be prosecuted by any parliamentary means. But on a subordinate question, the difference of opinion was great. It was thought by the party which opposed the Abolition of the slave trade, that without that great measure, and without any statute directly acting on the colonial system of slavery, the necessary reformation might be attained, and the slave trade itself even effectually suppressed, by influencing the assemblies to reform their own laws, and to pass acts for improving the moral and civil state of their slaves. For this purpose it was thought enough to communicate the sense of Parliament by means of addresses to the Crown, and to obtain in consequence, official recommendations from the Crown to the Assemblies.

On the other side, the advocates for an immediate Abolition maintained, that while the slave trade subsisted, the colonial assemblies would never seriously and effectually engage in the desired work of reformation.

Nor was it to Acts of Assembly in any case, that Abolitionists professed chiefly to look for the melioration of the state of the slaves. They did not decline indeed, on the contrary they earnestly desired, the enactment of meliorating laws. In some cases, the existing oppression arises not from the abuse of a master's powers, but from the direct and immediate operation of the colonial laws themselves;

and therefore, a repeal of those laws is the effectual and only relief. But those evils which constitute, beyond all proportion, the largest share of the miseries of slavery, flow from misadministration of discretionary private powers, with which the master himself and his agents are necessarily intrusted, wherever that relation subsists; and to controul the exercise of these by public laws, is as impossible as it would be to prevent by the interposition of the courts in this country, evils that flow from the wickedness, the imprudence, or negligence of parents; or to heal the infelicities of conjugal life.

In all such cases, the interference of the magistrate, unless directed to a separation of the parties, is for the most part, not only impotent but mischievous. It inflames, rather than mollifies, the bad passions whose action it can but for a moment restrain.

For these reasons, it has always been felt by the best-informed friends of that oppressed race, that the bad treatment of the slaves in our colonies can never be effectually prevented by the direct operation of a law, whether passed by their interior legislatures or by Parliament, that is to be enforced by the civil magistrate. The laws to which alone they have looked with confidence for that purpose, are such as will operate in the mind of the master; inclining him powerfully for his own sake, to promote the hap-

piness, and improve the condition of his slaves, and to submit to any present sacrifices that may be necessary for their conservation and native increase.

Such are the laws for the Abolition of the African slave trade. To them their promoters have confidently looked, not only for the deliverance of Africa from the horrors of that traffic, as far as Great Britain can effect it, but for the future progressive deliverance of our colonial slaves from a most cruel and destructive bondage.

Accused by their opponents of meditating a general emancipation, they denied the charge. But it was denied only in the insidious meaning of the imputation itself. They did not aim at an emancipation to be effected by insurrection in the West Indies, or to be ordained precipitately by positive law: but they never denied, and scrupled not to avow, that they did look forward to a future extinction of slavery in the colonies, to be accomplished by the same happy means which formerly put an end to it in England; namely, by a benign, though insensible revolution in opinions and manners, by the encouragement of particular manumissions, and the progressive melioration of the condition of the slaves, till it should slide insensibly into general freedom. They looked in short, to an emancipation, of which not the slaves, but the masters should be the willing instruments or authors.

In regarding the abolition of the slave trade as a first, an essential, and even a singly-sufficient mean to this beneficent end, they relied not upon untried theories, nor solely upon the known and universal springs of human action, but on all the experience that history records on this subject. In every country in which slavery has been mitigated in its kind, or ceased to exist after having once extensively prevailed, the supply of foreign slaves has first been cut off.

Till the almost universal extent of the Roman empire had precluded the former copious influx of vendible bondmen, captives in foreign wars, the slavery of Rome was not softened or retrenched; but, on the contrary, became progressively more cruel and extensive. But when, under Augustus and his early successors, prisoners of war became scarce, the Roman masters began of necessity to bend their attention to the care and preservation of the slaves which they already possessed*.

Their condition was soon after materially improved by law. Christianity, under Constantine and his successors, hastened the process by its benevolent spirit; but the reformation was already begun. Stipendiary service was progressively substituted for servile labour in the towns; the modified slavery of the *adscripti glebæ* succeeded to it in the country; manumissions became ex-

* See Gibbon's Roman History, 1st vol. cap. 2, and Hume's Essay on Population.

tremely frequent; and before the dissolution of the empire, the number of persons held in pure slavery became comparatively small, though the institution itself was never expressly abolished.

In modern Europe the case was similar. The practice of reducing a conquered people to slavery, and of selling prisoners of war, had every where ended, before the slave laws were reformed, or the servile condition was materially softened in practice or reduced in its extent.

In England, not only the sale of prisoners, but every other source of bondage, except that of procreation by bondmen, had ceased in law before the slavery, or *villeinage*, once comprising so large a portion of our English ancestors, began to decline.

A case perfectly in point has not arisen since the opprobrious renovation of slavery in the Western World. The African markets have been too recently, and too imperfectly and uncertainly shut against some of the colonies before supplied from them, to afford a specimen; but it is undeniable, that the colonies which have had for a century or more the largest and most regular supplies from Africa, are those in which the treatment of slaves, and their condition by law, are notoriously the worst.

The Spanish colonies, from the want of capital or enterprise in their merchants, and from the jealousy of their government, have had in general an extremely scanty and precarious supply;

and there it is that negro slavery is mitigated in the greatest degree, and manumissions are by far the most frequent. But in the island of Trinidad, Spain, by opening a free port to foreign merchants, and encouraging anxiously the importation of negroes, obtained a plentiful slave market; and there, in consequence, her humane regulations soon became a dead letter, and the treatment of slaves fell to the harsh standard of the Dutch and English islands.

There is nothing in these facts, or in the principles of action which they illustrate, that is at all extraordinary. We are not surprised to see a man take more pains to preserve the trees in his pleasure-grounds, than those in his woods. It is because the former, if suffered to decay, cannot be soon or easily replaced; whereas the timber market may supply the coarse uses of the latter.

Is it objected that humanity makes a difference, where sentient beings, and children of Adam, are the subjects? Be it so; but he who supposes humanity alone to be as powerful and steady an impulse, as humanity and self-interest united, knows little of mankind in general, and less of the masters of slaves. The friends of colonial reformation, then, have reasonably placed their hopes in the effects of the Abolition Acts, more than in all other means that can possibly be devised.

But to hopes so precious in the eye of humanity, a contraband slave trade must be fatal.

This is sufficiently plain, perhaps, from the obvious nature of the case. A law that is in many instances violated or eluded, may nevertheless, in part produce the direct and immediate effect which the lawgivers designed. An Act imposing an import duty, for instance, may be often evaded by clandestine importation, but still, in proportion as it is executed, the intention of raising a revenue is accomplished; but a collateral or secondary good, which is to grow out of the primary effect of a law, may be wholly lost even by its partial evasion.

In the present case it is necessary to the effect desired, not only that the primary object should be fully attained, but that its full attainment should be certain, known, and foreseen. It is not the prohibition of the slave trade by law, but the consequent inability to supply hereafter any deficiency in the requisite number of slaves by any other means than native succession and increase, that is to operate in the mind of the master. He is expected to change his system, not because the importation of African slaves is illegal, but because he knows that they are not, and believes that they will not hereafter be imported. It is not the penalties of the Act, but the actual want of a slave market, his fear of which is to influence his conduct, and make him submit to all necessary sacrifices for the preservation of his gang.

But if the Abolition Acts are known to be already evaded by smuggling (and, supposing such evasions to exist in a small island, they cannot in a general way be unknown to the community at large), there is an end to this salutary apprehension. The planter may reasonably calculate, that if such abuses are not effectually prevented at this period, they will not be checked hereafter, but that they will rather progressively increase, and will always be proportionate to the actual demand for slaves. He may therefore safely proceed in his present system; secure that, whatever the effects of it may be in future, he shall not be without a resource.

It may be objected perhaps, by those who have not well considered the case, that there must at least be a great advance in the price of negroes unlawfully imported, from the perils to which the smuggler must expose his property and his person; and that the high price of slaves, or even the prospect of it, may operate powerfully on the mind of the master in the salutary way desired, though he does not see or apprehend a total stop to the importation.

That there will be an advance in price, is probable; that it will be extremely great, may well be doubted; for it will be seen, in the course of these observations, that there will, as the law now stands, be the greatest facilities in smuggling without any serious risk of seizure or conviction. But no sup-

posable advance in the price of slaves will suffice to deter the planters in general from pursuing their present course, and engage them to submit to all the sacrifices which are necessary, in order effectually to adopt what has been called the *breeding*, in opposition to the *buying*, system. To raise the price of Africans by duties on their importation, was one of the substitutes formerly proposed for the immediate abolition of the trade. On general commercial principles the plan was specious, its object being to diminish, and, ultimately, stop importation, by the comparative cheapness of breeding. But this is a case to which the ordinary maxims and expedients of commercial policy cannot be safely applied. The authors of that plan did not know the great sacrifices which must be made at the outset, by a planter who would keep up or enlarge a declining gang by means of native increase. A great diminution of labour, especially among the females, is essential to that change: so are a more liberal and expensive sustentation of the slaves in general, a more chargeable care of infants and invalids, and some other additions to the annual disbursements upon an estate of which the produce is to be at the same time diminished.

It was not known or considered, how few planters, comparatively, are in circumstances to afford such improvements, or have even the present capacity to make them. The concurrence of

their mortgagees, and of other creditors, must often be necessary: for the case in very many instances is, that the average difference between the present annual expenses of an estate, and the net proceeds of present crops, will barely suffice to keep down interest on the incumbrances, and enable the planter thereby to retain possession of his estate.

It is idle to tell men in such circumstances, of benefits to be attained, or savings to be made, fifteen or twenty years hence; and yet they must wait so long at least, before they profit or save through the labour of children yet unborn, and by means of regulations which are to prepare for the obtaining, as well as the preserving, a large native increase.

Besides, the hope of distant advantages, and the cautious, calculating, patient views of the economist in the walks of European agriculture or commerce, have little or no place in the ardent and adventurous mind of a West India planter. He has staked his capital or credit, and with it his health and his life perhaps, on a game over which chance has far more influence than prudence. It is a game, too, at which the chances are greatly against him. Sugar planting is a lottery in which there are many blanks to a prize; but then the prize is very splendid; he *may* attain to great opulence, and in a very few years. This is the irresistible excitement by the effect of

which men are drawn into the hazardous speculation of buying or settling sugar estates; and when such dazzling objects are in view, and such risks incurred, slow-growing, and distant gains or hopes can have little to attract or deter.

The sugar planter, whether he buys or inherits his estate, possesses a property which is the sport of fortune, and has not therefore such inducements as other landholders have, to make sacrifices for its future improvement. The best settled sugar plantation is exposed to such extreme vicissitudes, that the fruits of patient self-denial may be lost, or the waste of improvidence repaired in a single season.

Hence the peculiar rapidity with which such patrimony is often spent; and hence a strong temptation to neglect the suggestions of prudence in the case we are considering. Convince the proprietor, if you can, that by planting ten acres less this year than before, and consequently diminishing his consignments by ten hogsheads of sugar in the next year, he may save three times the value in the price of slaves to be purchased fifteen years hence: what then? "I shall lose," he might truly reply, "250*l.* in my next year's income, which will oblige me to submit to the painful retrenchment of my present comforts; perhaps, for instance, the laying down my carriage: and, after all, the sacrifice may prove to have been either unnecessary or fruitless. Hurricanes, epidemic

diseases, droughts, or other causes, may ruin my estate long before the period you mention; or good crops and good markets may so enrich me within the same time, that the laying out even 1000*l.* in slaves will require no unpleasant sacrifice, and put me to no inconvenience. Either of these changes is far more probable than that matters should go on in such an equable course, with property of that precarious kind, as to secure to me the distant benefit you propose."

In fact, the experiment in question has been sufficiently tried. The price of African slaves in the West Indies had risen before the Abolition to three times its former average; yet the buying system was confessedly adhered to in preference to the breeding *.

For these reasons, and for others which might be adduced, it is in vain to expect such voluntary reformation, by masters in general, as the Abolition of the slave trade is calculated to produce, unless the trade be totally abolished in practice as well as in law.

Then, indeed, we may reasonably expect that the independent planter will be willing, and the needy planter enabled, to make all such present sacrifices as are necessary to secure a native suc-

* See a very important pamphlet, by Mr. Mathison, a planter of Jamaica, entitled, "Notices respecting Jamaica," published by Stockdale in 1811; in which some of these views are very impressively opened, though for a different practical purpose.

cession and increase. To neglect or postpone them, will be seen to be certainly ruinous to the master's property, and consequently to the security of his creditors and mortgagees. The latter, therefore, will not only concur in, but require and stipulate for, every measure that is essential to the preservation of the gang. The planter's credit will absolutely depend on his being able to shew that his estate is well stocked with healthy slaves, and that, by the most recent returns of births and deaths among them, their numbers are not declining.

But to these salutary ends it is necessary, for the reasons assigned, that the Abolition shall not only be, but be generally known to be, an efficient and permanent law.

If the hope of a future resource by contraband trade be not finally suppressed, the necessary influence on the minds of the planter and his creditors will not be obtained, the breeding system will not be decidedly adopted, and the oppressions which diminish population will not be reformed.

If we have thus far reasoned justly, the clear conclusions are, that the illicit importation of slaves must wholly disappoint the hopes of humanity in our colonies, as well as in Africa; that the trade will be even more barbarous and destructive to its immediate victims, than it was while permitted by law; and that the unfortunate colonial negroes will gain nothing by the change.

The event, as to the latter, perhaps, will be more than negative evil. In many cases, they may find in this abortive law an aggravation of their lot. It will serve as an excuse to such tenants for life, and other temporary owners of a plantation, as ought to keep up the numbers of their slaves, for omitting to do so, and casting on a reduced gang the same work that belonged to its former complement. The check of reproach also will be removed from those absolute owners of estates who, from their avarice or necessities, are tempted to practise the same species of oppression.

In these, and many other cases, the law may serve as a pretext for evil, rather than an instrument of good. It is clear, at least, that nothing will have been gained, except (what is indeed inestimable) the deliverance of the mother country from the guilt and shame of the slave trade; and even this will be lost, if having the power to make the Abolition effectual in practice, we now should refuse to do so.

SECTION II.

The Acts of Parliament already passed are insufficient for the Prevention of these Mischiefs.

SUCH being the pernicious consequences which would certainly flow from a contraband slave trade in the British colonies, the important practical question is, whether Parliament can and ought to do more at present than has been already done for the prevention of so great a mischief.

To determine this, it is necessary to inquire,

1st, Are the existing laws effectual?

2dly, If not, are there any means of greater and surer efficacy in the power of Parliament?

3dly, If such means can be suggested, is there any good reason why they should not be immediately employed?

In the first place then, let us consider whether the laws in being can be relied upon for effectually and certainly preventing the introduction of slaves into the British colonies by a contraband trade; and for so cutting off the hope of that resource, as to induce our planters in general to meliorate the state of their slaves, in the degree necessary to their preservation and native increase.

If it can be shewn, in point of fact, that slaves have already been clandestinely imported into

any of those colonies, since the Abolition Acts were passed, this question will be at once decided in the negative. A law which has already been evaded, may be evaded again; unless indeed, the facility of committing the offence be now lessened, or the means of prevention enlarged. In this case there has been no such favourable change. On the contrary, the termination of war has opened extensive new facilities to the smugglers, and diminished greatly the preventive powers of the Government. Slaves may now be brought from Africa under foreign and friendly flags, with plausible foreign destinations, in such a course as to sweep almost the very shores of our islands. They may also be deposited in foreign colonies within three or four hours' sail of our own. On the other hand, we shall in time of peace probably not have one-fourth of the number of ships of war (those only guardians of our abolition laws in the West Indies) that has hitherto been stationed among our islands, ever since the Acts were passed. Besides, the right of visitation and search exists only while our flag is belligerent.

The actual existence of slave smuggling therefore, since that period, would prove *a fortiori* its possibility in future. But the converse of the proposition is not true. If such smuggling has not hitherto been carried on, this by no means proves that we have now a sufficient security against it in the laws already passed.

That African negroes have been illicitly imported into some, if not all our islands, since the year 1808, and even since the offence was made felony, there is abundant reason to conclude.

Direct information of such practices has been several times transmitted to the friends of the Abolition in England, from different quarters. The particular modes, too, have been pointed out, viz. the running the poor captives on shore at night from a neighbouring foreign island; or the carrying them in small numbers from a more distant port in the dresses of Creole negroes, and under the pretended characters of sailors or passengers.

Many smuggled slaves were brought by these modes from the Swedish island of St. Bartholomew, and dispersed among the British colonies in the Leeward Island government; and more especially in St. Croix, then in his Majesty's possession. In the latter island, the practice was so extensive and notorious that the Collector of the Customs found himself bound to take public notice of it, and advertised rewards for the discovery of the importers.

Letters and personal communications from gentlemen of respectability, to the Secretary and General Committee of the African Institution, would suffice to remove all doubt of the existence of such offences, to some extent at least, if it were not a necessary precaution with that body, to conceal the names of individuals resident

in, or connected with, the West Indies, who send them, from humane motives, useful information. The transmission of it might otherwise dangerously expose the authors to popular odium or private resentment in that country.

To demand the highest evidence of such offences when consummated by actual importation, namely, the judicial conviction of the smugglers, would be to assume that legal proofs of the crime, and prosecutors bold enough to explore and bring them forward, might have been found within the islands where the slaves have been landed. But no man who knows the West Indies, or who will reason from the well-known laws and manners of that country, will expect either of these requisites there.

In a place where nine persons out of ten of the whole population are incompetent to give testimony against a free man, a smuggler must be heedless indeed to put himself in the power of any witness. In landing the slaves, and delivering them upon a plantation by night, it would cost much more trouble to incur, than to avoid, the risk of employing a free agent, or enabling a free spectator to prove the true nature of the transaction. Boatmen, and all other descriptions of persons whom it might be necessary to employ as inferior agents in such offences, are invariably of servile condition.

As to informers for penalties under the laws of

trade, not being officers of the Navy or Custom-house, officially bound to make seizures, it is a character of which perhaps, one specimen only has been found in the British West Indies within thirty years. About that time ago, a man was bold enough to inform, in one of the most important and most polished of the Leeward Islands, in a case of prohibited importation. He was immediately seized, tried publicly by a self-constituted court, convicted of the foul offence of being an informer, and sentenced to tarring and feathering, and perpetual banishment. Accordingly, in contempt of his privileges as a white man, he was stripped to the skin, covered with tar and feathers, and carried, with a drum beating the rogues' march, at mid-day, through all the streets of the town, no magistrate or peace-officer daring or choosing to interfere. He was next put on board an American ship then passing the harbour, and carried off as a convict to the distant island of Jamaica, from whence he could not return to his home without going first to North America. He had the hardihood, nevertheless, in a few months to return; called on the Government for redress; and the Attorney-General was ordered to prosecute the judge of the mock tribunal, and the immediate executioners of the sentence. He did so, with much zeal, for the honour of the Government; but to no effect. Not a witness but the prosecutor himself, could be

found, to depose to facts which one half the free population of the island had seen; and the jury, some of whom could probably have confirmed him as eye-witnesses, chose to disbelieve him, and found a verdict of, not guilty. The man, who had been kept in the gaol for his security during the prosecution, was glad at the end of it, to become a voluntary exile for life*.

After such an example, it will hardly be thought that prosecutors are easily found in a West-India island, upon laws so unpopular there, as the acts for the abolition of the slave trade.

There, nevertheless, have been seizures, by officers of the customs, of slaves unlawfully imported; and many cargoes of negroes from Africa seized at sea have been condemned in the prize courts, several of which were reasonably presumed to be British property. A direct destination from Africa to a British port, of course, did not appear, and could not well be suspected; but that many of the slaves were destined to be circuitously and clandestinely brought to our colonies, cannot be reasonably doubted.

It is, however, still more decisive, that there

* The official report of this case is, probably, still to be found among the papers in the office of Secretary of State for the Home Department. The informer's name was Smith: the prosecution was under the title of the King *v.* Allason and others, in the Court of King's Bench and Common Pleas of St. Christopher. The case arose in or about the year 1785.

have been numerous condemnations in the West Indies of small vessels, with each a few negroes on board, seized in the neighbourhood of our islands, and prosecuted under the Abolition Acts. A list of thirty West-Indian condemnations under these acts, as returned to the House of Commons, is printed in the eighth Report of the African Institution; and it will be found, on referring to it, that in sixteen of those cases, in which the sentences were acquiesced in, or confirmed on appeal, the numbers of slaves were so small that they do not average above four to each vessel. They must, therefore, have been chiefly engaged in the smuggling trade from the foreign islands that has been already described, as twenty times the number of slaves would hardly have sufficed to yield profit enough for an African voyage*.

* It may be necessary to caution the reader against a palpable mistake in these returns. All the slaves comprised in them, without exception, are described as *Creole* Slaves. This cannot possibly be true; because the far greater part of them were captured on the coast of Africa, and condemned at Sierra Leone. Probably the officers who made out the returns from the West Indies took the descriptions from the claims, which naturally, though untruly, following up the fraudulent pretences we have described, called the slaves, Creoles. The returns from Sierra Leone, when added to them for the information of Parliament, may have been arranged, from inadvertency, under the same running title of "Creole Slaves condemned."

There is a colony, in which the copious actual introduction of slaves by contraband means, is not only reported on good authority, but may be demonstrated from public facts, officially attested, more conclusively than by many convictions.

In Trinidad, by the last official returns, prior to the abolition of the slave trade, the number of slaves did not exceed 20,000; being but a small increase from 1805, when their numbers are stated by Sir William Young, from returns of that date, to have been 19,709. The intermediate loss, by an excess of deaths beyond births, must have nearly equalled the whole numbers imported; though there can be no doubt that these, in 1806 and 1807, had been unusually large. Nevertheless, from the 1st of January, 1808, when legal importation from Africa ceased, the slave population there appears to have rapidly increased. The returns for 1810, being 20,729; and for 1811, 21,288.

In the following year, preparations were made, by his Majesty's Government, for registering in public books of record the names and descriptions of all the slaves in the island, for the important purposes of precluding the illicit increase of their numbers. An order of the King in Council for establishing such a registry, of which we shall have occasion to speak more fully hereafter, was passed on the 26th March, 1812; and in the year

1813 *, blank books for containing the registry were prepared in this country, and transmitted to the island; it having been found that books proper for the purpose could not be procured on the spot. From inattention to the returns of the later years, or from their not having then been received by Government, it was at that time computed, that the numbers to be registered would not exceed 17 or 18,000, and the register books were, therefore, fitted to contain not more than 20,000 names and descriptions of slaves. Long after their arrival, and when the returns were for the most part made, the registrar, an intelligent gentleman long resident in the island, supposed that the numbers would not exceed that amount, and that his books would consequently contain them.

What was the result? The books were found insufficient: new delays were consequently incurred; additional books were sent from England; and by the month of December, 1813, when the original registration was completed, no less than *twenty-five thousand seven hundred and seventeen* slaves were found to be returned on oath, with their names and descriptions, as owned and resident in Trinidad; and were registered accordingly.

To conceive adequately the proper inference

* The delay had arisen from accidents which it would be tedious, and is needless, to explain.

arising from these facts, as to the extent of the importation subsequent to the abolition of the slave trade, we must take into account the probable loss on the former stock, by the balance of mortality compared with native increase. This, in Trinidad, has been dreadfully great, from the notorious bad effects of opening new lands in the West Indies on the health of the slaves, and from the great inequality of numbers between the two sexes on estates recently settled. It appeared from official information transmitted to his Majesty's Government, that the decrease of numbers, by the excess of deaths beyond births, had in a year or years prior to 1805, amounted to the enormous rate of 14 per cent. per annum.

Nor will our estimate, from such premises, of the extent of the contraband trade that must have prevailed, be materially affected by the consideration that some slaves may have been lawfully brought from other British colonies. It would be a large allowance to suppose 1000 may have been so brought from the 1st of January, 1808, when the Abolition took effect, to the month of December, 1813, when the original registry was completed. The planters of other colonies had in general no slaves to spare, and were not likely to strip their estates of labourers that could not now be replaced.

If such lawful importations had been large,

the fact must have been notorious, because slaves sent from one British colony to another, since 1st January, 1808, must have been cleared out and entered at the Custom-houses: but the only explanation attempted in the island, was, that the former returns, made annually under a Spanish law, must have been deficient. This is easily said; but they were adopted as authentic by successive governors and commissioners in their reports of the population. Besides, our inference partly rests on a comparison of these very returns with each other.

We have not the same means of demonstrating that like abuses have taken place in other islands. If we had similar returns even to compare, the result would perhaps not be strong enough to manifest either that smuggling had, or that it had not, prevailed: for unless the difference were very large, a decrease might be accounted for by the balance formerly usual on the side of mortality; and a small increase, on the other hand, might be explained by supposing a reverse of that balance.

It is indeed probable, that in some or most of the British colonies, the numbers clandestinely imported have hitherto been very small, when compared with their whole stock of slaves. In fact, the old islands, if we except Jamaica, dealt but little in the African market for their own use for several years prior to the Abolition; and the

low prices of West-India produce, with the French system of continental exclusions, would have since afforded our planters little temptation, and scarcely any means, to recruit their gangs by purchase, even if the trade had been open and safe.

After all, it is not the actual degree of illicit slave trade, as has been already shewn, that constitutes its mischievous tendency in our colonies in the preventing improvements; so much as its known practicability, and the consequent expectation of such a resource when wanted. Neither would the mischief be prevented, if the abuse were known to exist only in a single island. This would be enough, as the law stands, for the effectual and open supply of all the rest. It would also be felt, that what was easily done at St. Vincent's or Dominica, could be imitated, in case of need, at Jamaica or St. Kitt's.

Upon the same principle, if it could be still doubted whether this detestable species of smuggling has any where taken place, the colonial mischiefs which have been pointed out would nevertheless in a great degree arise from a general consciousness among our planters, that they have a potential resource in the clandestine importation of slaves, whenever their future necessities may require it.

The existing laws must therefore be very ineffectual to many of their important and interesting pur-

poses, unless their inherent efficacy is known and felt throughout the British West Indies. It would not be enough that, whether from present convenience or any other cause, a voluntary obedience was paid to them: it is indispensibly necessary that they should be regarded as forming a compulsory and inevitable rule of future action, in order to add to present obedience, immediate preparation for their future and permanent consequences. We want, as has been already shewn, not only a primary and present, but a secondary and future effect. The former may be provided by the immediate observance of the law; but the latter only by a conviction in the master's breast that it cannot hereafter be eluded.

If a general opinion, of the inefficiency of these laws would clearly preclude present reformation in the colonies, that evil would scarcely be less certain, though the opinion were that of a majority only, or of any considerable proportion of the resident planters; for it might be shewn that such changes in the existing system as are necessary to the maintaining the present black population in point of numbers; and still more such changes as may raise its moral and civil character, so as to clear the way for future and gradual emancipation, must be general, in order to be adopted by individuals, without great prejudice to themselves, and offence to the com-

munity around them. This is not hard to comprehend, if we suppose sugar-planters to be, what they really are, rival manufacturers, carrying on the same expensive process, and supplying the same market with the article they make. It is evident that, in such cases, improvements which materially increase the expense of the manufactory, without adding to the value of the article, or augmenting the gross returns, cannot be adopted by a few of the manufacturers, without the concurrence of the rest; or persisted in even by a majority of them, if a considerable minority should stand out.

If, for instance, a cotton-manufacturer, who employs a number of children, should be disposed to build and support a school and chapel for their education and religious improvement, to provide them with separate apartments suited to their ages and sexes, and with proper inspectors of their conduct, so as to guard them from the moral contagion to which their crowded and promiscuous intercourse might expose them, and ultimately to provide for their honest and profitable employment in some other line of business, when they were no longer fit for his purpose; it is plain that he could not afford such liberal and humane improvements, unless they were to be adopted at the same time by all, or nearly all, his competitors in the same manu-

facturing line. The addition they would make to the expense of his establishment, and to his future annual charges, would otherwise disable him from selling his cotton goods so cheap as the same articles might be sold by others; and since competition must in general fix the market-price at the minimum of fair and necessary profit, his manufactory would soon become a losing or ruinous business.

If, on the contrary, all who supplied, or could lawfully supply, the same market, were disposed to concur in the improvements, it is plain that they might be safely made, however chargeable they might be to the manufacturers in general. The new expense would raise in an equal degree the market price of the article, and would fall on the purchasers or consumers.

The British planters, if unanimous, would have the same happy facility. They possess a monopoly of the home market for their produce; and it will take off all they ought to make. Let them limit their sugar-planting to the fair capacity of their gangs, after such a retrenchment of labour as is necessary to maintain native population; and they will want no market but the British; in which they have not any competition to fear, except from each other. Their common increase of expense, therefore, being in proportion to the quantity of their produce, will fall, not on them-

selves, but upon, those who for such a purpose will cheerfully bear it, their fellow-subjects in Europe.

This reasoning, it may be objected, assumes that the expense of the improvements will be a loss; whereas the charge of such melioration of the treatment of slaves as may be necessary to maintain their numbers by native increase, will be compensated by saving the expense of future purchases of such property.

It may be so; but if the change of system cannot be effected without a temporary increase of expenses and diminution of returns; and if the future benefits are not to be derived until a period beyond the ordinary range of West Indian speculations, we cannot expect that the present inconvenience will be encountered willingly for the sake of the distant good. That the breeding is permanently more costly than the buying system, is a proposition which we do not maintain; though it was an opinion held and acted upon by many Planters before the abolition of the trade*.

The obstacles to a reformation that is not general in the same colony, are not wholly, however, of a commercial kind. If the difficulty we have glanced at were surmounted, the laws of the place would present many others; and its manners still more.

* See Mr. Mathison's pamphlet before referred to, p. 12, &c.

Here we have the clearest and most melancholy proof of the inefficacy of the Abolition Acts, as to the interesting and necessary object of colonial reformation.

What benefit have the slaves in any one island yet derived from the Abolition Acts, and from the favourable disposition in the Government and Parliament of Great Britain? In their legal condition, certainly none at all. They are still the absolute property of their master; still fed, and clothed, and worked, and punished, at his discretion; a few ostensible regulations excepted, which were demonstrably futile, and have confessedly proved to be useless. Still this extreme bondage is hereditary, and perpetual; and still the slaves are daily subjected by law to hardships and miseries, against which even the champions of the colonial system have exclaimed, as cruel and needless aggravations of their lot. They are still liable to be sold at the suit of the master's creditors, as well as by the voluntary act of the master himself; to be stripped from the domain, and exiled for ever from their homes, their families, and friends, without the imputation of a fault.

The inexorable maintenance of this last acknowledged grievance, is the more worthy of observation, because Parliament was accused of being its author, and was called on by the colonial party to reform it. The change of that part of the colonial code was accordingly prepared for by the

repeal of part of the statute 5th Geo. II. cap. 7, which was untruly represented as having given birth to this cruel branch of the law of slavery; but which certainly stood in the way of its reformation. At the instance of the late Mr. Bryan Edwards, the Act 37 Geo. III. cap. 119, was passed for that purpose; and it was expected that the colonial assemblies, following up the same principle, would repeal their own Acts, which made slaves liable to be severed by sale from the plantation to which they belong.

That reformation was afterwards specifically and earnestly recommended by Government, in consequence of a parliamentary address; but not one colonial legislature, out of thirteen which exist under his Majesty's dominion in the West Indies, has yet thought proper to comply! The slaves are every where still subject in this instance to a most needless, unjust, and unmerciful aggravation of their lot, peculiar to the bondage of the British colonies, though eighteen years ago it was reprobated by all parties in Parliament, and renounced by the British Legislature. Not a voice has ever been raised in its defence; not an apology has ever been offered for adhering to it; yet still, in contempt of the recommendations of Parliament, the odious oppression is maintained.

The same is the opprobrious truth as to every other legal reformation that is necessary to promote the native increase of the slaves, and melio-

rate their condition. Nothing, in short, has even been ostensibly attempted, but that which the assemblies have admitted to be impracticable, and which every reflecting mind must perceive to be so—the protection of slaves against domestic oppression in the exercise of the master's power. For this idle purpose, indeed, mock laws have been made, have been laughed at, and forgot; and men who dare not complain, who are incompetent to prosecute, and whose evidence cannot be received in any court, against any free person, are referred to the law for redress, when in the bosom of the master's domain, they are not sufficiently fed, are worked to excess, or receive more than a limited number of lashes *at any one time!!!*

Even against the more cruel wrongs of strangers the assemblies admitted that these poor beings are not practically protected by law; because their evidence, and the evidence of all their companions, is rejected*. Yet in no island has this legal impediment yet been removed.

* See the Privy Council Report on the Slave Trade, part 3; title, Grenada and St. Christopher's, A. No. 4. "Those who are capable of the guilt," say the Council and Assembly of Grenada, "are in general artful enough to prevent any but slaves being witnesses of the facts" (facts of gross and wanton cruelty by free persons toward slaves), "and the danger of admitting the testimony of slaves to affect the life or fortune of a free person is so obvious," &c. "As the matter stands, though we hope the instances in this island are at this day

Insular laws, whose policy plainly depends on the permanence of the Slave Trade, also remain unrepealed. Many of them, for instance, discourage the breeding system, instead of favouring it; and that in no small degree. In most colonies the revenues raised for public or parochial purposes, are chiefly raised by a poll tax upon slaves, which attaches on them from the birth to the grave, without any allowance for infancy, or for other disability to labour for the master, either through infirmity or age. The planter, therefore, who has the largest proportion of native slaves, bears, in comparison with his ability, the heaviest share of the public burdens. If a mother should be released from field labour on account of her pregnancy, or her duties as a nurse, the master is nevertheless rated for her and for her infants too. If feeble life is kindly cherished after the hope of productive labour has ceased, the poll tax still continues, and operates in effect as a discouragement to humanity and justice.

In another instance, loudly demanding the attention of Parliament, the assemblies have not only continued, but in some colonies have very recently originated, laws calculated to

not frequent, yet it must be admitted with regret, that the persons prosecuted, and who certainly were guilty, have escaped for want of legal proofs."

perpetuate slavery, by obstructing manumissions.

One of the most efficacious means, not merely for the gradual disuse of slavery, but for the encouragement of good conduct among those who are still held in that state, is to make enfranchisement the prize of great individual merit. It is the strongest excitement to industry and self-government that a master, or a human law-giver, can possibly hold forth. It has therefore been much in use in every country, ancient or modern, in which slavery has prevailed. It has every where been encouraged by the laws, and in a variety of cases ordained by them as the reward of public merit.

In Greece, in Rome, and still more in England, the modes of manumission were varied and multiplied, both by the legislature and by the judicial expositors of the laws, so as not only to facilitate the master's beneficence, but almost to ensnare him into it.

He was also supplied by the Greek and Roman laws with very powerful motives for manumitting his slaves in the valuable and honourable rights of the *Jus Patronatus* over his Freedmen.

In England, if it be asked what cause most powerfully contributed to the dissolution of the degrading bondage of our ancestors, the answer must clearly be, the extreme favour shewn to

individual enfranchisements by the judges and the laws. That baneful growth of foreign conquest or early barbarism, *villeinage*, had nearly overspread the whole field now covered with the most glorious harvest of liberty and social happiness that ever earth produced, and where not one specimen of the noxious weed remains; yet it was not ploughed up by revolution, or mown down by the scythe of a legislative abolition; but was plucked up, stalk by stalk, by the progressive hand of private and voluntary enfranchisement. Slavery ceased in England only because the last slave at length obtained his manumission, or died without a child.

Even the sordid and odious slavery to which the injured Africans have been reduced in the New World, has not been every where unaccompanied by the consolatory hope of its future extinction by the same means. In the Spanish and Portuguese colonies, in the former especially, manumissions are greatly encouraged; and a right of self-redemption also given to the slaves, upon terms as easy and as equitable as the nature of their state allows. The consequence is, that in most of the colonies of Spain, the negroes and mulattoes still in slavery, are inferior in number to the free inhabitants. In Cuba even, where enormous importations from Africa have taken place during the last twenty years, the free population, by the latest official returns, amounted to 388,000; while the

slaves were no more in number than 212,000. That this is the effect of manumissions, is undeniable; for of the 388,000 free inhabitants, 114,000 are negroes or coloured persons. In the returns for the Havannah and its suburbs, the different colours are distinguished; and it appears that the free negroes greatly exceed the free mulattoes; the former being 16,604, and the latter only 9,743; which makes it probable, that the manumissions have been recently very copious. The slaves were no more than 28,728 *.

In what country accursed with slavery, then, is this sinking fund of mercy, this favour of the laws to human redemption, taken away?

Where, by an opprobrious reversal of legislative maxims, ancient and modern, do the lawgivers rivet, instead of relaxing, the fetters of private bondage, stand between the slave and the liberality of his master by prohibiting enfranchisements, and labour as much as in them lies to make that dreadful, odious state of man, which they have formed, eternal?

Shame and horror must not deter us from revealing the truth: *It is in the dominions of Great Britain.* This foul and cruel abuse of legislative power has been reserved for Assemblies boastful of an English Constitution, and convened by the British Crown.

* These returns are dated the 20th July, 1811, and were officially made to the Cortes.

Can the case be further aggravated? Yes: in the obstinate rejection of better principles, in a perverse opposition to the voice of a liberal age, and in the contumacy of these petty lawgivers towards the mother country which protects, and the Parliament that has power to controul them. The insular laws alluded to, which in many or most of our colonies restrain, and virtually prohibit, manumissions, have all originated within a very few years. They have in their odious principle even been innovations on the former slave codes, which freely permitted, though they did not hold out positive inducements to, enfranchisement by the act of the master; and some of these cruel innovations have been made, since the time that humane reformation of the colonial slave laws was the unanimous wish of Parliament, declared in votes and addresses to the Crown, and officially made known to the Assemblies.

Further aggravation still, may seem scarcely possible; yet such is to be found in the hypocrisy of some of these iniquitous laws. With the fraudulent design of concealing from European eyes their true principle, they avoid the positive prohibition of enfranchisement, but lay a tax upon it, heavy enough to insure, generally speaking, the same effect; and pretend that the object is to prevent free coloured persons becoming chargeable to their parishes, or the public. The pretence is

not only false, but inconsistent with notorious truth. In the few islands in which a poor rate is ever known, the objects for relief are exclusively white persons; and the authors of these laws might be challenged to shew a single instance of a free coloured person being relieved as a parish pauper in any part of the West Indies. In fact, persons of that class have so many resources, from their capacity of sustaining labour without inconvenience from the heat of the climate, and from their mutual sympathies, connections, and attachments, that absolute indigence is rarely, if ever, known among them.

Others of these acts have spoken of dangers, from the enfranchised persons becoming indigent or idle, in a more general way, as if they went on a principle of police. But in neither of these cases is the tax so applied, as to prevent the mischiefs pretended to be feared. It is to go into the insular treasury for general public purposes. The freed person may be in want, or be idle, and dissolute, just as naturally, and with as little remedy, as if no duty had been laid on his enfranchisement. The only difference is, that by all the amount of the duty, his own ability, or that of his patron, to protect him from future want, is reduced. If he could himself pay or raise the sum imposed, there can be no doubt he would do so to obtain his freedom; and the law would then guard him from in-

digence, by taking from him all that he possessed, or obliging him to borrow on the credit of his future labour!

This cruel mockery must enhance the pain of the oppression*.

* The Legislature of Grenada in its first Act of this kind, passed in 1797, thought that decency, if not justice, required a deviation from this general course; and therefore, in imposing a tax of 100*l.* on manumissions, allowed an annuity of 10*l.* for life to the freedman. But by another Act of 1806, it threw off this troublesome mask, repealing all the clauses and parts of clauses which related to the annuity, and retaining the tax of 100*l.* without any allowance whatever! At the same time, consistently and fairly enough, it altered the preamble, so as clearly to shew that the considerations of police recited in the first Act were mere pretences, and boldly to avow hostility to freedom alone as its true motive.

As this is a curious case, and will throw light on the true motives of the other colonial legislatures, we subjoin the preamble as it stood in the Act of 1797, and print in Italics the part left out by the Act of 1806.

" *And whereas the manumitting and setting free slaves diseased, blind, aged, or otherwise disabled from working, without making provision for their sustenance and comfort, ought to be prevented, as it obliges them to ramble about and beg for subsistence, which frequently compels them to the necessity of robbing and stealing, and leads them to other bad practices to support themselves*" (no relief from poor rates pretended here); " and whereas it is also necessary to discourage the two frequent and indiscriminate manumission of slaves *without a sufficient provision being made for their support.*"

The tax, the reader is desired to observe, is not imposed on the manumission of " *diseased, blind, aged, or disabled*" slaves, only, but of any slave whatever. It was very proper, therefore, in the Grenada assembly to repeal the whole of the

The master, then, who would improve the moral conduct of his slaves, and render their lot more cheerful, by the all-powerful prospect of freedom, as a reward to superior merit, or who would confer that reward for the past services of some faithful and useful slave, as an example to the rest, would find himself in this point, as in others, opposed by the insular law. He must, on the manumission, sacrifice a large sum of money in addition to the value of the slave. In some colonies, in one of them at least, this iniquitous tax is as high as 500*l.*, in others 300*l.*, and it is not known to be in any place less than 100*l.* currency.

Nor is there any exemption from this charge in any case whatever. The father cannot without paying that oppressive tax release his own offspring from slavery; nor the husband redeem his wife, so as to become the father of freemen, instead of wretches to be driven like cattle for life.

Such pitiable cases must frequently arise under these shameful and merciless laws. Nothing is more common than for free blacks and mulattoes to be the husbands and fathers of slaves. In such cases, they were often known to labour with incredible patience and perseverance to raise money

preamble, except what is above printed in common type, together with the annuity clauses.

See Mr. Smith's edition of the Acts of Grenada, pp. 320, 321.

for purchasing the freedom of the wife and children. But now, that heart-stirring object must be hopeless; and the sad effects on moral character, as well as on domestic happiness, may be easily conceived.

Had there been any honest or rational principle in these laws, exceptions might have been expected for encouraging exemplary good conduct in the servile state, or increasing native population. It has often been proposed, for instance, as a happy mean of promoting the latter object, to enfranchise a mother who has borne, and raised to maturity, a given number of children. The most intelligent colonists have recommended this expedient; and some masters, perhaps, had begun to practise it. But now such means of improvement are effectually taken away.

The colonial legislatures, if they had regarded the Abolition as effectual, would also have been anxious to promote the religious instruction of their slaves. However adverse or indifferent, in general, to the cause of Christianity, they would have desired to take the benefit of its influence, in the restraint of polygamy, and other practices adverse to the interests of population. But no Act of Assembly can be shewn which has redeemed our islands, in any degree, from the reproach of their former gross neglect in regard to this sacred duty: on the contrary, laws have been passed aggravating that sin by positive obstructions to

the pious purpose of a master who should desire to reform the morals and manners of his slaves by the means which Christianity affords. In some of our colonies at least, and Jamaica in particular, laws have been passed opposing positive prohibitions to the only attainable means of religious instruction and worship; and though the royal negative has been properly applied as often as such Acts of Assembly have been transmitted for his Majesty's allowance, their temporary operation and renewal, aided by means of persecution which have been craftily resorted to under other and still subsisting laws, have very materially checked the charitable zeal of those who would have communicated freely the beneficent light of the Gospel to the poor pagan bondsmen of our colonies.

Other instances of a spirit directly opposite to the spirit of the Abolition might be adduced; but we must avoid all unnecessary details; and it would be singly enough to say, that the grievous oppression before noticed as condemned by Mr. B. Edwards, and the colonial party in the British Parliament, has no where yet been removed. It is a sufficient indication of the fact we wish to establish that plantation slaves are not yet in any island annexed to the estate they cultivate, so as no longer to be liable to be severed from it by execution at law.

Though humanity had failed to recommend

such a measure, common policy would have imperiously dictated its adoption upon the prohibition of the slave trade, if that commerce had been regarded as really and finally cut off. To strip a plantation of its slaves, would have been seen to be remediless waste. Justice to creditors, to heirs, to the planters themselves, would have prescribed the immediate repeal of laws which not only permit, but direct, that the slave shall be sold separate from, and prior to, the lands and buildings. In islands where they are, in law, personal estate, and go as such in cases of intestacy to the administrator, provisions would have been made, if not to reverse that rule, at least to modify it, for the protection of the heir at law; as by enabling him, for instance, to retain them, on payment of the value, to the personal representatives. In one or two of our islands, this case was so provided for a century ago, as between the heir and younger children: the expedient, therefore, was well known to the assemblies. Formerly, it was for mutual convenience only: now it has become matter of necessity; not only in that particular case, but in all others, where a planter dies intestate. Yet nothing has been done. Heirs have been left every where at the mercy of the personal representatives, as well as that of the creditors.

A hundred cases might be instanced, in which consequences the most unjust, and the most re-

pugnant to acknowledged policy, must flow from this single neglect of legislative duty, if the Abolition is supposed to be effectual. Lessors, for instance, might be ruined by their lessees; for it was a common agreement, that the latter should be bound only to account for the value of the slaves at a price settled by appraisement, when they were not forthcoming at the end of the term. Various contracts of different kinds, and many settlements and trusts were founded on similar views; namely, that as importation always supplied a copious slave market, gangs could always be easily recruited, enlarged, or replaced; and that, therefore, payment of the value was equivalent to the specific restitution of such property. Numerous, therefore, were the calls for new legislative regulation and protection of private rights, if those views were reversed by the Abolition.

But they were not reversed or altered in the minds of the assemblies. They knew, indeed, that Creole or native gangs were rarely to be obtained at any price, in many islands not at all, even while planters had the African market open to replace the labourers they might sell. They must have seen, therefore, that such purchases would now be quite impracticable, if that market were really shut; but they relied on the contraband resource; and therefore only were supine. Such considerations were not overlooked by them. Some of the most intelligent colonial advocates,

in opposing the Abolition in Parliament, pointed out these very effects on contracts, trusts, and family settlements, as strong arguments *ab inconvenienti* against that measure. It was not their business to point out the remedial expedient of annexing the slaves to the soil, or the other legal regulations by which such inconveniences might be in a great degree prevented; but these were too obvious, and too important to have escaped the notice of West-Indian lawgivers, if they had been willing to conform to the Abolition, when enacted by Parliament, or had felt that it was necessary so to do.

Others, of the same party in the controversy, avowedly took a different view, and that to which the assemblies have practically adhered: they maintained, that smuggling could not possibly be prevented, and inferred, that the legal prohibition was vain. In reference to such Acts of Parliament as have been already passed, or any other ordinary means of preventing contraband importation, the proposition, if not the consequence, was true. The opinions here maintained, and the belief that slaves have not ceased to be imported into our islands, to the extent of the actual demand for them, are so far in unison with arguments which the colonies advanced, or adopted before the experiment was made.

If, then, great inconveniences have not been felt, from the causes adverted to, in the absence of

remedial laws, and if loud calls have not been made on the assemblies by injured creditors, and by trembling heirs and reversioners, to protect them from ruinous waste, it may fairly be inferred that illicit importation has prevailed; and that there has existed in our colonies, little or no fear of the slave market being irretrievably lost.

Every unrepealed law adverse to the breeding system, every unrestrained oppression that impairs the health, shortens the lives, or diminishes the prolific powers of the negroes, points to the same conclusion. They collectively afford evidence of the strongest kind, that the assemblies do not regard the Abolition as effectual, but still look to Africa for the supply of their wasting population.

SECTION III.

There is one only effectual Mean of preventing the illicit Importation of Slaves into the British Colonies; which is that of a Public Registry.

THE first of the three inquiries proposed, need not be pursued any further. More might be said, but more cannot be necessary, to prove that the Acts of Parliament already passed are not effectual for the purpose of preventing the introduc-

tion of slaves into our colonies by clandestine means. That such mischievous abuses have been practised during the operation of those laws, has been sufficiently proved; that they may be practised hereafter with still greater facility, has also been shewn; and it has been demonstrated upon undeniable premises, that an expectation of such supplies in future, prevails in the British West Indies, and, by its pernicious influence on the minds of the planters and the assemblies, frustrates the happy tendency of the Abolition to meliorate the lot of the slaves.

Let us proceed, then, to the second of the proposed inquiries, *Whether any means of greater and surer efficacy are in the power of the British Parliament?*

The Acts in question seem to have done as much, or nearly as much, as was in the power of the Legislature to do, for the extinction of the slave trade in all its branches, except one. To carry it on from British ports, or from Africa in British ships, and in general to prosecute the trade at sea, or in any foreign part of the world, on account of, or by the agency of his Majesty's subjects, is made as difficult and dangerous to the parties, as Parliament could possibly make it. The penalty of death can only be superadded; and this, though by no means too severe, on the ordinary principles of criminal law, for the nature of the crime, would probably, from the

scruples of prosecutors and courts, be less effectual than the existing penalty of transportation.

But that branch of the trade in respect of which we had the highest and the most interesting duty to perform, was the importation of slaves into our own colonies. Here the legislature had also the greatest cause to fear there would be eager and persevering efforts to elude its prohibitions; and that the former sanctions of restrictive trade laws, would not be found effectual. Yet here, and here only, the preventive and remedial powers of Parliament have not hitherto been fully employed.

As a British statute has no force in a foreign colony, we cannot enact that the people of Cuba or Martinique, shall not receive slaves brought to them in breach of our laws; or shall not detain them in slavery; still less can we give effect to such an enactment, by regulations to be enforced in those islands. If a cargo of slaves from Africa should be carried, on British account, on a voyage to the Havannah, all that we can do is, to intercept them on the passage, if we can: if that opportunity be lost, the case, as far at least as concerns the poor injured Africans, is remediless. But if the slave trade continues to be sanctioned by foreign governments, in time of peace, such cases will be open to two very consolatory reflections; first, that we are not guilty, as a nation, of the crimes of British

subjects, which our laws did not permit, and could not possibly prevent; and secondly, that those crimes are not likely to be very numerous, or to add materially to the general ravages of the slave trade. For the carriage of slaves by or for account of British subjects, being hazardous to the ship and cargo, while the carriage of them by and on account of foreigners, is safe from all fiscal and war risks, the profit of the former, to the bad men engaged in it, must soon be annihilated by the competition of the latter. It must at least be reduced to too low an ebb, to leave an adequate temptation to the British contraband traders; who must add their own personal dangers from the law, to that of the capture and confiscation of their property.

But if illicit importation into our own colonies takes place as the law now stands, we shall have no such consolation. Independently of the secondary evils which have been noticed, every slave brought thither will be one more victim added to the multitude that British avarice has made. Parliament will, therefore, not be guiltless, unless we can truly affirm, that it possesses no means within those colonies of prevention and remedy beyond those penal and other sanctions with which the general prohibitions of the slave trade are at present armed, in other parts of the world.

Without anticipating the question, whether

further means would be effectual, it may be easily shewn, that untried means are yet to be found. The acts in existence, for instance, contain no practical provisions for the cases of negroes unlawfully imported into our colonies, but not seized and condemned for that cause; so as to prevent their being kept in a wrongful slavery, within the British dominions, for life.

Perhaps a reader unacquainted with colonial laws and customs, will be ready to exclaim, "What new provision of that sort can be wanted? Have we not courts of law," it may be asked, "in these colonies? How then can a man be held there in an illegal slavery for life, without his own consent?"

A man the most conversant with the laws of slavery now existing, or that ever did exist upon earth, except that of negroes in the western world, might be posed with the same apparent difficulty. He would conclude, that the oppressed African had only to invoke the civil magistrate, in order to obtain immediate redress, and severely to punish the oppressor. Such a man would know the anxious care with which the awful question of slave or free has been provided for, in point of evidence and trial, by every slave code, ancient or modern, of which the historian or the lawyer is informed. The presumption of law was every where in favour of freedom; the *onus probandi* was every where cast upon the master; the forms

of judicial investigation and rules of judgment, were calculated to favour the claim of liberty so greatly, that it was next to impossible such a claim, when well founded, should fail of success. It may be supposed then, that the West-Indian master would be called on to shew his title; and that when it appeared to be derived under a contraband importation, the negro would at once be enlarged, and compensated in damages for his extorted labour, his false imprisonment, and the other wrongs he had received.

Unluckily, however, these remedies, and the right of even alleging the wrong in a civil action, are barred in the British West Indies by one short objection which the complainant cannot remove: "*The man is a slave.*"

The ancient lawgivers had weak nerves in framing their slave-codes when compared to our British assemblies. Instead of giving the slave a right of invoking the civil magistrate against all men but his master, and in some cases against the master himself, the assemblies have disabled their slaves from applying to the law for relief in any case, against any free person whatever. They cannot be heard as complainants, prosecutors, or witnesses; except against persons of their own unhappy condition.

"But here," it may be replied, "you are on a question of slave or free. The complainant denies that he is in law a slave; and therefore it

would be absurd as well as unjust, to turn him away on the ground of his slavery, 'non valet exceptio ejusdem cujus petitur dissolutio,' is a maxim not of any particular code, but of universal law; because a plain rule of eternal reason and justice."

Very true; but the colonial courts have still one short rejoinder: "*His skin is black.*"

The assemblies here again have improved wonderfully upon the slave codes of all other countries and times. They have absolved the master from the troublesome duty of proving his title. They have reversed the universal presumption of other laws; placing it, not in favour of freedom, but against it. They have cast the burthen of proof on the weaker and helpless party. The English lord, when trying the question of villeinage with his alleged villein or slave, was obliged even to bring into court the near relations of his opponent to prove the hereditary condition. The West-India master need produce only the alleged slave himself. His condition is recorded on his face.

This comparison between ancient and modern lawgivers is, we should admit, in one respect more favourable to the former in the apparent, than the true conclusion to which it leads. Their slave-codes, on the whole, were certainly far less illiberal and harsh than those of the West-India islands; but in their care to prevent free men

from being wrongfully reduced to slavery, the ancient legislators had motives and feelings from which lawgivers in the new world, in forging fetters for the unfortunate Africans, have been exempt. If the former had suffered the rights of a master to be wrongfully assumed over a free person without providing a remedy for the wrong, they themselves, their friends, or their posterity, might have been victims of such injustice. The voice of the free part of the community would have exclaimed against the dangerous defect. But assemblies of white men, elected by white men alone, had no danger to fear for themselves or their constituents from maxims of law that exposed negroes to oppression. As slave masters, and purchasers in the African market, it was convenient to them that their titles should not be disturbed by claims of freedom. As men tinctured with creolian prejudice, they had little tenderness for the freedom of the African race. They rather wished that every black man were in fact, as well as by legal presumption, a slave.

In this, and other instances, negro slavery is a source of great injustice, from the same peculiarity that has given birth to most of its practical aggravations; the strong and repulsive corporeal distinctions between the slaves and the free members of the community in which they live. It not only destroys sympathy, and increases the

contempt every where inspired by a servile state, but facilitates oppressive legislation.

While an ordinary title to slaves in our colonies, was a purchase made of them in the yard of a Guinea factor, there was, we should further admit, some slight apology for reversing the rule of other slave codes in the way that has been noticed. It might have been modified, at least, without further blame than such as arose from the nature of the slave trade itself. The title of the seller in Africa, could not be traced and verified on the other side of the Atlantic. It must have depended in point of right, so to speak, not only on facts arising in Africa, but on African law. It might have been excusable, therefore, to require of the master of a native African claiming to be free, to prove only his purchase from the Guinea factor; and that the negro was one of a cargo previously brought from Africa in a slave ship; leaving it open to him to impeach that title if he could, by shewing that he had been wrongfully carried from the coast. In other words, the legal presumption should have gone no further than this, that *prima facie* every negro exported from Africa, as a slave, was actually in that condition by the law of the country from which he came. To extend it further, was clearly to outstep the necessity of the case. In applying the presumption of slavery, therefore, to every man with a black skin, wherever born, and in

whatever way he came into the master's possession, the assemblies were guilty of a harsh innovation, for which no excuse could be alleged, even while the slave trade was permitted by law.

But however far the rule might have been defensible at that period, the Abolition, if sincerely acquiesced in by the assemblies, would have plainly prescribed to them to pass a law for its immediate repeal.

The case was now radically changed. Instead of importation from Africa raising a presumption of lawful slavery, it was to constitute in future a clear title to freedom.

In respect of past importations, indeed the rule, reduced to the dimensions already suggested, might have been specially retained. Proof of a purchase under an importation from the slave coast, prior to January 1808, might have been allowed to establish *prima facie* the condition of slavery. But thenceforth, no legal right to hold a negro in bondage, could arise by any means whatever out of the British West Indies; consequently the right itself could always admit of proof within the master's power. The failure of such proof, therefore, must warrant the conclusion, that the condition has been unlawfully imposed.

To continue the general presumption of law, still, on the other side, what is it but virtually

to withstand and frustrate the enactments of the British Parliament?

Let us look at a particular and very probable case, that may arise on the Abolition, Act 47th Geo. III. cap. 36, sec. 7. Native Africans, when unlawfully imported or carried as slaves, are, after seizure and condemnation, to be apprenticed, or otherwise provided for by a guardian; but they are to be free. Creole negroes, the subjects of a like offence, are, after condemnation, to be free without any such temporary restraint. In both cases, their title to the rights of free men, in the British territory to which they are carried, is not only the necessary effect, but the express ordination of the statute. Yet what would be the effect of the insular law, if any of these men, or the issue of the women, thus enfranchised by Parliament, were afterwards held in slavery in a British island? They could not stand in judgment to assert that statutable right. If asserted for them, by Habeas Corpus, at the instance of some bold and generous patron, their colour is a presumption of slavery which he could not repel, unless volunteer witnesses of the same character would come forward to prove by affidavit all the necessary facts. He would then have to work up against the wind and tide of local prejudice, at a heavy expense; and after all, without the good will of a bench of slave masters, could not hope for success. The *onus*

probandi resting upon him, any flaw in his evidence as to identity, or otherwise, would be decisive against him; and if the decision were unjust, he could have no appeal.

If a condemnation under which the enfranchisement arose, were recent indeed, and in the same island, some facilities of proof might be expected; at least where the negro had been in the charge of a public guardian, whose official character would naturally prompt him to furnish a voluntary affidavit, and protect him from resentment in that offensive service; but still, the generous patron must be found, and a serious expense incurred, before the case could be brought at all to judicial notice.

The cases, however, which are most likely to arise, and which unquestionably at this moment exist, in most if not all of our islands, are those of Africans clandestinely imported, who never have been seized and enfranchised by condemnation, and therefore can have no evidence of their right to freedom (which they nevertheless clearly possess) unless they could prove the offence of which they have been the victims.

If these men could lawfully implead their oppressor, and if in such a suit or upon any complaint on their behalf, before a competent tribunal, he were bound to prove his right to detain them in slavery, they might probably obtain relief; for

without the aid of perjurious testimony, and forgery too in most cases, he could not make out his title. But the iniquitous rule in question delivers him from all these embarrassments. They are *blacks;* and the presumption of law absolves him from the task of proving either his title, or their condition.

As to the act of contraband importation, how are they to prove it, even if they could compel the attendance of witnesses for the purpose? Their fellow-sufferers are not competent, from the same oppressive rule; for though free in law like themselves, they must be presumed to be slaves. Being negroes, they cannot be sworn as witnesses till their own freedom is established. The white persons, if any, who know the facts, are not only friends or dependants, but most probably accomplices, of their opponent.

It is plain then, that in this most probable and ordinary case, relief would be in general hopeless. Accordingly with all the reasons that have been noticed for concluding, that the illicit introduction of slaves has been large in some colonies, and has taken place in some degree in them all, no instance of legal redress to any of the sufferers has yet been heard of; nor any application to a court or magistrate on their behalf.

If negroes entitled to freedom under the Abolition Acts were delivered even from the hands of

their private oppressors, as they would be in cases of seizure and condemnation, their freedom would still be in extreme and constant peril, while this iniquitous presumption of law, and some practical rules that are founded upon it, remain unrepealed. To such a cruel extreme does the principle prevail in Jamaica and most other colonies, that a negro is presumed to be, and is dealt with as, a slave, even when nobody lays claim to him as master. Such persons are actually taken up, seized and sold upon that presumption only, and upon the no less inequitable inference drawn from it, that they are fugitives, and of a character dangerous to the police. By positive law a negro, who has no master, may be apprehended by any white person and carried to the nearest gaol. The gaoler, or deputy provost-marshal, is then required to advertise him, with his bodily description: and if he be not claimed by some master who can prove his property within a limited time, the prisoner is to be publicly sold as a slave, and the price lodged in the colonial treasury, to be paid over to the master if he afterwards appears, otherwise to be applied to the public service.

No exception is made in those acts in favour of negroes claiming to be free; nor any means whatever provided to enable them to prove their liberty. If a man were to be sold with his deed of manumission in his hand, it would be per-

fectly consistent with the law; and the purchaser would nevertheless have a good title to hold him in slavery for life.

Nor are these acts a dead letter. On the contrary, they are in very frequent use; as every man who reads the West-India newspapers must know. In the Jamaica Gazettes especially, it is quite common to see notices from the deputy provost-marshall's office in respect of negroes thus dealt with, who are advertised to be sold, unless claimed by somebody that can prove his property as master.

In the greater part of those ordinary cases, or nearly the whole of them, it may fairly be inferred that the unfortunate prisoner alleged himself to be a free man; because if he had confessed himself a slave he would presumably also have told to whom he belonged, or given such further account of himself as would have led to the discovery of the master. Men claiming their freedom therefore, and found in the actual possession of it, and contradicted by nobody, are sold into slavery by the police, merely because they are black. The only additional requisite is a non-claim which tends to make it highly probable that they are lawfully free.

What is to guard negroes imported in a clandestine slave trade from being victims of these most unjust and inhuman laws? They might be imported even with that very view; for these acts

present an obvious and easy course by which the smuggler or his vendee might contrive to gain a good title, in contempt of the Britisth statutes.

Surely the abrogation of laws like these, is one mean at least which ought to be tried for the more effectual abolition of the slave trade.

But here a difficulty may, perhaps, suggest itself, as to the execution of any measure whatever, adapted to such an end, within the British islands. If such be the hostility to those laws in the minds of the colonists in general, and if judges and others concerned in the administration of public justice are too much infected with, or overawed by, that popular feeling, to execute the laws with impartiality in cases of contraband importation, and of slavery wrongfully imposed; how, it may be asked, are those evils to be prevented by any new enactments that are to be executed in the West Indies by the colonial courts?

"Reverse," it may be said, "the unjust and opprobrious maxim that is here complained of; place the presumption of law where it ought to be, on the side of freedom; provide for the convenient trial of the question slave or free; and lay the *onus probandi* in it on the master; still, if that question must be tried by a colonial court and jury, there will be a strong leaning on the master's side; and in the clearest case of freedom, the party unjustly held in bondage may obtain no relief."

The conclusion, in regard to any measure which depends for its efficacy solely on forensic proceedings in the colonies, is right. Much, indeed, would be done to lessen the evil by those improvements in the law. There are limits beyond which local prejudices, however powerful, will not always be able easily to warp the administration of public justice. In flagrant cases, a sense of what is due to character, or even sometimes higher principles of conduct, may turn the scale in favour of the oppressed. Besides, means might be found to review, by appeal, decisions manifestly unjust. Every lawyer at least will feel the vast importance of the difference between the present state of things, and one in which the negro could put the alleged master on the proof of that right which he assumes, in the form of an issue at law. It is even the more important on account of the disfavour which he has to expect from the court.

Still, however, partiality would operate, we admit, in a great and mischievous degree. It is highly desirable, therefore, in this and every view, that means should be devised, if possible, to make the true condition of the colonial negroes matter of public, notorious, and conclusive evidence; such as can never be wanting to prove a true case, and cannot be fabricated to support a false one.

It is a still greater *desideratum* that the means so to be provided should be calculated to act in

general without the direct and active aid of any court or magistrate. The regulations on this subject should be such as may, if possible, ensure their own execution.

There are means, happily, by which all these *desiderata* may be supplied, and perfect obedience to the abolition laws, within our islands, effectually secured.

The means are not hard to find. They have been already devised, by his Majesty's Government. They have been established by law in three of our sugar colonies. In one, they have been carried into full execution. These means are no other than the establishing throughout the British West Indies, a public registry of slaves, with regulations similar to those which are contained in an instrument before alluded to, the Order of his Royal Highness the Prince Regent in Council for registering the Slaves in Trinidad.

A short explanation of the general plan of that registry, and the leading provisions of the Order in Council which established it, will furnish nearly all that it is necessary to add under the present head of inquiry.

General Plan of a Registry of Slaves.

The general object of this plan is to obtain a public record of the names and descriptions of all persons lawfully held in slavery in each respective

island. For this purpose, it is obviously necessary, in the first place, that full and accurate returns should be made of the existing stock of Slaves. These, which are required to be made as soon as conveniently may be after promulgation of the law, are called the *original returns*, and the record which is to be made of them the *original registry*.

But the individuals composing this unfortunate class will be progressively changed, by deaths, by births, by enfranchisements, and by importation from other British colonies (if that practice be still permitted). It is necessary, therefore, that the original registry should be periodically corrected and enlarged, by new returns of all such changes as have taken place since the last preceding registration.

Annual returns have been thought not too frequent for this purpose. It is, therefore, required that within a limited time after a given day in each year, new returns shall be made, specifying all such subsequent changes; and that by these the records of the original registry shall be from time to time corrected and enlarged; so that they may always exhibit, immediately after the last annual returns are recorded, an account and specification exactly corresponding with the stock of slaves at that time existing in the colony.

Such a registry being formed, and perpetually kept, in a public office within the colony, is to be hereafter the necessary evidence of the servile

condition of persons resident within the island to which it belongs. No negro or mulatto is to be hereafter treated, sold, or conveyed, as a slave, unless he has been duly registered as such. On the question of slave or free, the absence of the party's name and description in the registry, is to be conclusive evidence of his freedom.

In framing records that are to have these important consequences, great care must be taken to secure their fulness and precision, their truth, their accuracy, and their duration.

To these ends, every owner of slaves in the colony is required, on pain of the loss of his property in them, to make his return of them upon oath, in a prescribed form, and with a variety of specifications, such as are best calculated to prevent any future incertitude as to their identity. Their sexes, names, ages, statures, and other corporeal distinctions, are to be set forth, truly and carefully, in schedules annexed to the returns: These are all to be inserted in the books of record, and the slaves are to be registered under the names of the different plantations or owners to whom they respectively belong. Any change of property in them is to be notified in the next annual return, and the registry is to be corrected accordingly.

Provisions are made for correcting or supplying involuntary errors or omissions, during such a

limited period as will enable owners, whether present in, or absent from the colony, to discover and repair the errors or defaults of their agents; but after that period no alteration in the original or annual registries, is to be allowed.

Special exceptions, however, are made, and carefully guarded from abuse, in favour of owners under temporary disabilities; and of parties having property or interests in slaves of which they are not in immediate possession.

In the latter case, the general nature of the expedient is to transfer to the parties out of possession, *e. g.* mortgagees, or parties having reversionary interests, the title forfeited by the party in possession; and to cast on them also the duty of repairing his default by a proper registration within a limited time*.

* The non-registration of any slaves by mortgagors in possession, the abuse most likely to happen, is, perhaps, not guarded against in the Trinidad Order so strongly as others. The mortgagee becomes entitled to immediate possession, and is to hold the unregistered slaves irredeemably without any allowance for their value in a future account; but it would have been better if the equity of redemption of the whole mortgaged premises had been forfeited.

The same principle, perhaps, ought to have been extended to forfeitures by other defaulters, having limited interests in possession, who omit to register part only of the slaves; and to the avoidance also of an entire conveyance of slaves, or land and slaves together, where some only of the slaves are unregistered. By the Trinidad Order it is void as to the latter only.

To protect still better the rights of infants, and other incompetent persons, an official inquest is superadded, to discover and supply any defaults of their guardians or trustees.

A variety of other provisions are made, to prevent, as much as possible, any particular injustice, hardship, or inconvenience to which individuals might be exposed by the errors or defaults of others.

The danger of fraudulent alterations and interpolations in the registry, and of the destruction or mutilation of the registry itself, by fire or other means, wilful or accidental, is guarded against by a special provision, which, in other important respects also, is essential to the plan. Exact duplicates are to be made of the books of original registry, and full abstracts are to be formed of the subsequent annual returns: and both are to be transmitted, promptly and carefully, to his Majesty's principal Secretary of State for the colonial department in England, in whose office they are to remain; and the entries in these are to be continued by the periodical corrections and additions which the abstracts from time to time supply.

It is obvious that a separate public office in London would be a fitter depository for this duplicate registry; as it will be necessary to allow of frequent searches in it; and the colonial department is already but too much overcharged with business in proportion to its official esta-

blishments. But the King in Council had not the power of establishing by the royal authority a register office, with proper regulations, in this country.

The books, and duplicates, and abstracts, are all to be certified in the most solemn manner by the Registrar, and verified by his oath before the Governor; whose hand and seal of office are further to authenticate these important records.

The severest penalties are annexed to any act of forgery or fraud on the part of the Registrar or his clerks; and anxious provisions are made for his independency, and for exempting him as much as possible from local influence.

Persons convicted of holding or attempting to hold in slavery, any negro unlawfully imported, by means of any fraudulent return, or entry, are, besides a severe penalty, incapacitated afterwards to hold or possess any slaves.

Extracts from the books certified by the registrar are declared to be *prima facie* evidence of the registration of the slaves contained in them; but liable to be corrected by production or examination of the books themselves. Such evidence is made necessary to the establishment of the master's title, not only as between himself and a negro claimed as his slave, but in any action brought for the recovery of such property between free persons.

In proceedings under this law, it is to be no ex-

ception to the person of the plaintiff, or prosecutor, that he is a slave, when his right to freedom may depend on the event of the suit; and the evidence of indifferent witnesses being, or alleged to be, slaves, may be admitted, subject to all just objections to their credit.

Such is the general outline and effect of this new law at Trinidad; by an extension of which, with a few amendments, to our colonies at large, all the *desiderata* before indicated will be fully supplied. Every mean of evading the Abolition Acts which has been shewn to be left open by the existing laws, will, by such a measure, be precluded. The suppression of the slave trade, so far as respects importation into the British colonies, will be effectual and complete. What is still better, the mischievous hope of a future supply from illicit importation, will be extinguished; and the beneficent effects which the Abolition is fitted to produce upon the treatment of the slaves, will in consequence be realised and secured.

It is evident that such a law will prevent the illicit introduction of slaves into the British colonies, far better than the severest penalties denounced by a prohibitory statute; for it will take away all the advantages of the crime. No property in the injured Africans can be acquired or transferred to others. No length of time can ever give a right of ownership over them, or their offspring. No valid security upon

them can be created. Every mortgage or conveyance, of which they are the subject, will be void in law*.

To put them on a plantation, and mix them with a registered gang, will produce consequences fatal even to the security and alienability of the property with which they are so blended. The gang will no longer correspond with the recorded list and descriptions—the future annual returns must thenceforth be for ever false and perjurous; or a discovery of the offence will be made. If the estate is to be sold or mortgaged, there will be a similar dilemma. The smuggled negroes must be excepted, and the fraud and perjury which had been practised in that way disclosed; or else the conveyance will be vitiated, and a forfeiture of the property incurred.

The hazards incident to offences against the laws now in existence, will at the same time be multiplied. If a prosecutor be found, or if the complaints of the negroes wrongfully enslaved, be brought in any manner to judicial notice, a reference to the public register will at once conclusively shew that the complainants are free men in point of law. They must, therefore, be discharged; and will become competent witnesses to bring home to their oppressor the felonious crime which he has committed. If he was not

* See the last note. The amendment there suggested is assumed to be made in some of the following remarks.

concerned in the importation, but purchased them of the smugglers prior to the last annual return, the crime of perjury under the Register Act at least may be brought home to him by their evidence.

Besides, a planter thus offending, would not only have to expose his own property to forfeiture, and himself to an infamous judgment by his own personal returns; he must also, when an absentee (the most ordinary case of West India proprietors), find agents willing to sacrifice their consciences, and expose themselves to public infamy, by swearing to false returns on his behalf, in order to bear him out in the crimes he has committed. To attornies and managers of that profligate character, he must commit the care of a valuable estate; for in his absence the annual returns must be made on his behalf by the same representatives who are intrusted with the possession of the estate and slaves. Men capable of such offences are not likely to be very provident for the sake of others; yet it may sometimes be a further consideration, deterring from the crime, that the executors and trustees and other posthumous representatives of the offender must also be men of profligate principles, willing to commit perjury in the custody and administration of his property: for otherwise discovery and forfeiture must infallibly take place at his decease.

The last and most important of the *desiderata* which we noticed, then, will by such means be happily supplied. The sanctions of a Register Act have an inherent self-dependent efficiency; a power of exacting obedience to the rules prescribed, without the intervention of any colonial court, or executive officer to enforce them. From regard to his own interest, from the fear of losing his power over his own property, and even the property itself, the owner of slaves will be careful to have them duly returned, and to make the registered evidence of his title always correspond with the existing state of the gang.

The inquiry secondly proposed is thus brought to a satisfactory close. There *are* means in the power of Parliament, not only more effectual than any which it has yet employed, but such as have a sure and sufficient efficacy to prevent the clandestine importation of slaves into our colonies. All the mischiefs that have been shewn to be the melancholy fruits of that abuse, or of the expectation of it, may be easily precluded. Parliament has only to do in our colonies at large, what the Crown has already done at Trinidad, St. Lucie, and the Isle of France.

SECTION IV.

The Objections that may be raised to an Act of Parliament for registering the Slaves in the British Colonies, considered.

It remains only to consider the last subject of inquiry proposed, "whether the means which have been suggested are of such a kind, that there is any just reason why they should not be immediately adopted?"

The objections which may be raised against the establishing a registry of slaves in all our colonies on the principles which have now been indicated, are partly the same which were made in the case of Trinidad; and partly those which may be drawn from the different constitutions and laws of other colonies.

The former may be dispatched with a more summary consideration than the latter; because as they were, after very patient and full deliberation, over-ruled by his Majesty's Government, a presumption against them fairly arises on that ground; and because also, they have now in part received a practical refutation.

The measure, in the first place, was truly said to be one that offered great violence to the popular feelings in Trinidad; and the same objection

may no doubt be raised with equal truth in respect of Jamaica, and all other sugar colonies. Understanding, as we here must, by the people, not the population at large, but the small minority who have white complexions, it is probable that their voices would be pretty strongly, and pretty unanimously, opposed to a measure of this kind. But if this were a valid objection, we ought not to have passed the Abolition Acts; for it is impossible that a more general, or a more violent opposition, can be raised among the white colonists, against a register act to enforce the Abolition, than that with which they combated, the Abolition itself.

The popular voice in every country certainly deserves great respect from the legislature; for the grand object of all good laws, is the happiness of the people at large; and though a community may sometimes widely mistake the proper means of its own happiness, this, among a polished and intelligent people, is more likely to be the exception than the rule. Besides, it is one species of infelicity to have laws imposed upon us which we greatly dislike.

But the case is very different, when one order in a state has interests distinct from, and opposite to, those of the rest, and opposition comes from that order alone: more especially when that order comprises, like the white class in our colonies, a very small proportion only of those whose welfare may be affected by the law in question. Nor is

the opposition of such a particular order, deserving of the more respect, because the great majority, comprising all other classes, is silent, when that silence is known to be not a matter of choice, but a necessary consequence of the strict and despotic subordination in which they are held. In such a case, the legislature is bound to consider whether the silent majority have really an interest in the adoption of the measure opposed. If so, *dum tacent clamant;* their incapacity to speak for themselves, is equivalent to a host of petitions: the popular voice is virtually on that side.

To deny this, would be to adopt the principles of West-Indian legislation, and to suppose that laws ought to be made for the sake of the privileged order alone.

The measure was also represented in the petitions and remonstrances from Trinidad, to be objectionable in point of expense. The charges of the registry were provided for in the Order in Council by some very moderate fees to be paid on returns and official certificates; and in the general disposition to quarrel with the measure at large, the produce of these fees was magnified by the complainants beyond all bounds of probability. Such an objection as this, however, if well founded, might have been easily obviated without sacrificing any thing essential to the plan of a registry itself. It need not, therefore, be further noticed here.

The personal duties imposed on the owners were also complained of as unreasonably onerous. It is natural enough for men to be averse to any species of trouble the object and fruits of which they dislike. But surely it is not too much to require of one man to write a few lines once a year, in order that another may not be unlawfully compelled to drudge for him under the whip for life.

All that these gentlemen are called upon to do, is less than every housekeeper in England must perform every year, not merely for the purpose of ascertaining his property and establishment, but for the unpleasant further purpose of paying taxes upon them. Printed blank forms to be distributed by the registrar in the West Indies, may be filled up by a man who has many slaves, in less time than a gentleman in this country can make his returns for the property tax, the assessed taxes, and the returns under the militia acts.

In truth, the new personal duties would be less onerous than those which are already imposed in the colonies, by subsisting laws, for which they might be made the substitute. At present, in most of our islands, annual returns of slaves are required for the purposes of internal revenue; and in some of them, the new meliorating acts have required annual returns of the births and deaths on each plantation, with many other specifications, as checks on the

inhumanity of masters. That these laws have not been, and were never meant to be obeyed, is an answer to which the supposed objectors will perhaps not choose to resort.

Precedents still fitter to silence such complaints may be found among these insular laws. An act of Grenada, for instance, dated in 1786, obliges all free negroes, mulattoes, and other coloured persons to do the same identical acts for the public manifestation of their numbers, persons, and condition, that are here in question in respect of the slaves. They are compelled to return for registration in a public office, their names, places of abode, ages, sexes, and colour, and those of their children, and moreover the nature of their claims to freedom*. Upon what principle can it be decently denied, that the same publicity ought to be given to the condition of the same race of men, when held in slavery? If such precautions are proper to prevent the unlawful assumption of freedom, surely the unlawful privation of it, ought not to be guarded against with less care; especially as the latter, is by far the more probable mischief.

To all objections of this class we might also oppose the positive advantages which the owners of slaves will obtain by a registry, in the greater security of their property, and the facility of proving their titles.

* Printed Acts of Grenada, No. 51. § 1, 2.

To fair creditors and incumbrancers, the advantage will be still greater. Already the registry at Trinidad has been found, in this respect, to produce a very salutary though unforeseen effect, by bringing to light the true property in slaves, which their owners had bought in other persons' names, with a view to protect them from their creditors, and to withdraw them from the estate, when the mortgagees should assert their right to the possession. Frauds of that kind have been frequent in all the islands, when the slaves have been mortgaged with the land, with covenants from the debtor, that all after-born and new-purchased slaves shall be subject to the same incumbrance. The mortgagor in possession has often so managed as to elude those agreements; and when compelled at length to resign the estate to the mortgagees, has stripped it of its most valuable slaves. To such bad practices, peculiarly ruinous to the security of the creditors since the abolition of the slave trade, a general register would be the most effectual bar.

The penal and remedial sanctions, which are provided by the Orders in Council, for Trinidad, and which are essential to the plan of a registry, have also been subjects of objection.

To deprive the master of his property in a slave, which he omits to register, has been thought too harsh. But if such provisions are severe, or unreasonable, how many of our English statutes

ought to be repealed? The Navigation Act, for instance, of the present reign, which does such honour to the name of Lord Liverpool, and all the acts for registering ships which preceded it, must be regarded as oppressive. Various troublesome acts, forms and solemnities are prescribed by these statutes, as to the registration of a ship, the obtaining a certificate from the custom-house, the recital of the certificate upon any subsequent transfer, and the official correction of it upon any changes of ownership or construction: and if these acts are not performed, or these solemnities are not fully and accurately observed by the owners, they not only lose the necessary evidence of their title, but the property itself, if employed in privileged British navigation, and all the other property found on board, are in most cases forfeited and lost.

So the purchaser of an annuity, who gives the fullest value for it, and under the fairest circumstances, forfeits the whole, unless he take care to have it registered within a limited time, according to the strict requisitions of the Annuity Act.

Is the liberty of a man and all his posterity, of less value than the privileges of a ship, or the property of a spendthrift?

It would be endless to cite the examples of a like severity, that are to be found in our statute books. What, for instance, are all the important provisions of the statute of frauds, against parol agreements

and trusts, and wills not duly attested, but so many forfeitures imposed on those who suffer by the avoidance of the contract trust or devise, because they, or the parties under whom they claim, omitted to perform certain positive acts required by the law?

The sufficient defence of all such enactments, is, that they are necessary to important political or judicial ends; and that no man can suffer by them, but through a default that might easily have been avoided. It is, however, a further defence in general, and strictly applicable to the case before us, that in precluding the assertion of rights not legally evidenced, the law proceeds on a fair presumption, that they do not really exist. The object is not to take away interests justly acquired, but to prevent the fraudulent acquisition, or claim of them to the prejudice of others.

The ship, for instance, when not duly registered, is presumed not to be really intitled to the privileges of British navigation in respect of her construction and ownership; but a foreign vessel fraudulently usurping those privileges. So here, the unregistered negro may justly be presumed not to be the property of the asserted master, but a free man wrongfully enslaved.

The assemblies, if they bring forward such unreasonable complaints, might also be referred to their own acts for registering deeds and wills. In

most or all the islands, this is required to be done; and in the very troublesome and expensive mode of an enrolment at length in a public office, within a limited time; and the penalty of any default is the loss of the estate granted or devised; in some cases absolutely, and in all so far as the giving a preference to purchasers or mortgagees, claiming under a subsequent but registered title. These acts also extend to slaves; and that even in colonies in which slaves are personal estate; so that in truth a general registry on the principles here proposed, would do little more than provide a clearer specification of the registered property, and extend the same protection to personal freedom which the colonial laws have given to property; and on the same principle, that of excluding frauds by publicity of title.

A register act of this kind, it is true, explodes that more than barbarous maxim, that unprecedented despotism, born of the African slave trade and colonial legislation, which presumes a man's slavery from the colour of his skin; but at the same time, it gives a new and very convenient species of evidence to the true master, for the proof not only of the servile condition, but of his own property in the slave.

If through perverseness or negligence, he will not provide that evidence, in the simple and easy way prescribed to him by the law, it is just, and it is necessary, that he should be debarred from

exercising the rights of an owner. It is impossible to be more tender of those rights, without leaving in extreme jeopardy, the far more valuable rights of free men, who have committed no default at all.

The enfranchisement of unregistered slaves, considered as a loss to the contumacious or negligent owner, can require no further defence. But an objection has been started to this course on the ground of local policy. It has been pretended that the enfranchisement of slaves by the operation of a register act, would be dangerous to the peace and safety of the colonies, by increasing too much the numbers of the free coloured class, in proportion to the whites.

Among the decisive answers which may be given to this objection, that which a well informed advocate of the poor Africans would be most desirous to give, and which might well be singly relied upon, is that the political principle assumed is radically vicious and absurd. Though a simultaneous enfranchisement of the whole, or any large proportion of the slaves in any colony, might certainly be attended with much public inconvenience and danger, the progressive increase of the free coloured people, in their proportion to the whites on the one hand, and to the slaves on the other, is so far from being adverse to the public peace and security, that it is in truth the best and only certain way to maintain them.

There is no point in which the self-interested and prejudiced feelings of the white colonists are more demonstrably at war with common sense and experience than in their violent adherence to the opposite opinion. The history of the Spanish colonies alone might serve to convince any thinking man that the larger proportion there is of that middle class, the safer an island is from internal convulsions and foreign conquest; as well as the more valuable to the manufacturing country from which it derives its supplies. . . . .

It is absolutely necessary, unless negro slavery is to be eternal, that those who legislate for the British West Indies should soon come to a right conclusion on this important point; to which end no more is wanting than that they should not take their opinions from the foolish prejudices and noisy clamours of a small self-interested colonial minority, but from the clear voice of reason and experience. If manumissions are to be still discouraged and restrained by the colonial codes, slavery can end only by terrible revolutions, or by dangerous experiments at best; for the only tried, safe, and convenient way to get rid of that odious institution, is progressively to increase the middle class by individual enfranchisement, according to the examples, before adverted to, of other nations and times.

But as it is not convenient here to expose in an adequate manner, the false and preposterous

policy of keeping down the free coloured population, it may be right to repel the objection last stated, by another answer, which rests on no controverted ground. The shortest reply to it is this: The subject of pretended inconvenience would not in fact arise. The number of negroes enfranchised by a register act, would be as small in proportion to the whole black population, as the number of ships condemned here for want of a register, is to our whole commercial marine.

Masters will not be such enemies to their own property as to refuse or omit to comply with the requisitions of a register act when they see that it is become an operative law, and know what will be the legal effects of their default.

Here also experience has confirmed the suggestions of reason. In Trinidad an opposition the most general, strenuous, and violent was made to the execution of the Order in Council, from the moment of its promulgation. The opposition was countenanced even by persons in authority there; and many of the largest proprietors, if not a great majority of their body, pledged themselves by public declarations and mutual agreements, that they would never make the prescribed returns of their slaves for the purpose of registration. Nothing could be more apparently hopeless than a general compliance; yet before the expiration of the time first limited by public

notification, a very great majority had sent in their returns to the registry.

It was thought necessary by the local government to enlarge that time, on account of impediments and causes of delay not foreseen by the framers of the law; and before the extended period had elapsed, all the defaulters complied. It is not known at least that any one owner of slaves ultimately stood out; though a few returns came so late that it was supposed they could not be registered consistently with the general regulations of the law, unless under a special power given to the governor in cases of involuntary default.

If, however, there were any probability that a large number of negroes might become entitled to freedom for non-registration, and if that were a real political evil, it is still absolutely necessary to the general principle of a register act, and to the effectual suppression of the slave trade, that they should be enfranchised. It would be monstrous to presume them to have been unlawfully enslaved, and yet not to set them free; and it would open a door for fraudulent expedients by which the abolition and register acts might both be eluded. Above all, it would tend to diminish very much the self-executing energy of the law.

The cases of default, by tenants for life, by mortgagors in possession, and other masters, hav

ing a limited or qualified interest, are capable of another remedy, and the remedy ought to be such as will not prejudice the rights of persons not in possession, or incapable of making the return. The general nature of the provisions made by the Trinidad Order for cases of those descriptions, has been already indicated. In *them*, enfranchisement is no immediate consequence of the default; yet it must ultimately be made such, if the default be not retrieved, within a reasonable time, on the part of the parties interested in remainder or reversion; for otherwise frauds might easily be committed, subversive of the general object. These special cases, it must be admitted, are rather of delicate and difficult treatment; since a period must be allowed within which the condition of the unregistered negro is equivocal. He cannot be immediately set free; for that would be to prejudice the party having an interest distinct from the estate of the defaulter: but neither ought he to be left in the possession of the latter; who, having lost the rights and interests, could not safely be trusted with the powers of a master; and who, before the slave could be claimed by the party next entitled, or enfranchised by his default, might remove him, perhaps, out of the reach of the law.

The only expedient that could be found by the framers of the Orders in Council for Trinidad,

was to confide persons in this doubtful state to the special protection and keeping of the local government.

In this respect the provisions of that law may admit, perhaps, of improvement; or, perhaps, the best course that can be devised, may be liable to equal objection. Few subjects of legislation are so tractable that a good general object can be attained without some partial inconveniences; and how much less likely is this to be the case with the unnatural and corrupting institution of slavery. Laws which are designed to regulate, or even to reform it, must inevitably be attended with many difficulties, while they permit the state in any degree to remain. In all such cases we must be content with expedients which contain the largest promise of practical good, with the least admixture of unavoidable inconvenience and defect.

The only objection which remains to be noticed, is that which will demand the most attention; because, as it had no relevancy to the cases of Trinidad, St. Lucie, or the Isle of France, it has not yet been practically over-ruled by his Majesty's Government; and because also it affects to stand upon ground of great general importance,—the constitutional limits of the jurisdiction of Parliament over the British colonies.

Errors which are very gross and palpable, may nevertheless deserve a careful refutation, when they take post upon sacred principles; and are likely, if admitted, to draw after them very mischievous results.

The objection in substance is, that, admitting the propriety and necessity of establishing in all our colonies, a registry of slaves, such as has been established in Trinidad, it ought not to be done by Act of Parliament; because it is matter of regulation *within* the colonies, which constitutionally belongs to the colonial legislatures alone.

There are some champions of the colonies, however, who think it prudent to take narrower ground, and soften this objection into matter of prudential, rather than constitutional principle. They hold, that whether Parliament has the right of internal legislation or not, the exercise of it in this case would not be expedient. The same persons, also, affect to talk of the imprudence of stirring nice constitutional questions; and hint, by allusions to the case of the American Revolution, that there is no small danger of resistance.

The first remark on these objections is, that if the views of their authors are correct, Parliament should not only stop, but turn back; for it cannot be forgotten, that the same objections were raised and the same apprehensions excited, to avert the abolition of the slave trade. That excellent and most popular measure was represented by the

same persons as an invasion of the constitutional rights of the colonies; and a wrong to which they would never submit. Afterwards, indeed, when the general Abolition Act had passed, the assemblies prudently shifted their ground, affecting to consider the act rather as a prelude to some intended attack on their legislative rights, than an actual invasion of them. It was felt that though the slave trade was lost in theory, it would be saved in practice, if Parliament could be deterred from giving effect to its own prohibitions as to maritime trade, by auxiliary regulations on shore.

But without prejudice from the motives of the objectors, let us fairly examine the merits of the objection itself; first, in a constitutional view; and secondly, as it affects to raise a question of political prudence.

An exclusive right of internal legislation in the assemblies, would amount to that political solicism, *imperium in imperio;* as was clearly shewn in many arguments still extant, which our quarrel with the North-American colonies produced. Many, indeed, of the zealous champions of those colonies admitted, that such a right would be a virtual independence; and they, therefore, disclaimed any pretension to it, until independence itself was asserted.

The exclusive right of the colonies to impose taxes on themselves, stood on very different prin-

ciples, and was well maintained by argument, as well as by arms. But most of those who strenuously asserted the latter, were careful to distinguish it from the former; and admitted that internal legislation by Parliament, except for the purpose of raising a revenue, could not be rationally questioned. Among those was the illustrious Chatham, that determined enemy to the American war.

A slight degree of reflection will suffice to shew the extravagant consequences that would flow from a contrary doctrine.

The power of giving laws, is not merely essential to sovereignty, but is sovereignty itself. The lawgiver is in effect the sovereign. Nor is there any sound difference, in this respect, between a general legislative authority, and the exclusive possession of that which the colonial advocates call internal legislation. They who can alone prescribe the *lex loci*, are the sovereigns of the place. The Berlin Decree was the law of France, though it related to maritime commerce, and was opposed at sea by the irresistible navy of England. To allow this claim, would be to place the sugar islands in the same relation to us as Hanover; but with this, to us, most unjust and degrading difference, that we are bound to sustain and protect, though not allowed to govern, them.

Are we told that we may regulate their navi-

gation and trade? By what right; and by what means? If their colonial constitutions have given to their assemblies the sole power of framing laws for their respective islands, let the exceptions be shewn of their ports, their dock-yards, or their trade. Let it be shewn also, how our navigation or trade acts are or can be enforced, without numerous official establishments, and auxiliary regulations, provided by the same authority, which are to operate on shore.

Is it replied, that the exception extends to such local regulations as are necessary to give effect to those laws? Then there is an end of the practical question. A registry of slaves is a regulation, and a necessary regulation, to effectuate the Abolition Act, which is a law of navigation and trade.

The claim being liable to such answers in point of *principle*, how stands it as to *precedent?* If the parliamentary authority in question may fairly rest, like every other constitutional rule, upon ancient, continued, and unquestioned practice, the case is not less clear on this ground, than on the principles of reason and justice.

From the first settlement of our colonies, Parliament has not ceased to exercise a general jurisdiction over them; and this without opposition or complaint. Until the practice was extended to the invidious and dangerous purpose of direct taxation, no objection was ever made, or none so

audible as to have reached the ear of historians. Many instances of the practice might be pointed out which were even solicited by the colonies themselves.

To enumerate the various acts of Parliament which have been passed at different periods, legislating for his Majesty's colonies in America and the West Indies, for purposes both external and internal, would be a very tedious work; but the reader may be requested to open the volumes of our statutes, from the Restoration downwards, to examine their indexes under the titles, Colonies and Plantations, and to find, if he can, a single book in which precedents of the practice in question do not occur. Yet numerous are the instances in which acts expressly extending to the colonies, are not to be found by such a summary mode of research. It has been common to extend the operation of an act to his Majesty's colonies and plantations in America, by a clause, which, not being noticed in the title of the act, has escaped the observation of the editors of the Statutes at large.

It is no objection to say that these acts were chiefly made to regulate the external trade and navigation of the colonies. Such have certainly been the purposes which have most commonly invited the exercise of the jurisdiction in question. Parliament, erroneously and most unfortunately

thought, that matters of interior jurisprudence, and police, in general, might be safely left to local and subordinate legislatures.

If such ill-judged abstinence had been invariable, and had now become an obligatory rule; if the right of the supreme legislature could be lost by disuse; still it would not avail the objector in the case before us; because, for the purpose of enforcing exterior commercial restrictions, at least, Parliament has always copiously exercised its right of legislation, as well within the colonies as without; and such is the object of the registry in question.

There are not wanting, however, many instances of statutes which have altered or introduced rules of law within the colonies, in matters not at all of a maritime nature, and where there was no purpose of either restraining or regulating trade*.

* Such is the statute 5th Geo. II. cap. 7, before referred to, which, besides the subjecting lands, and tenements, and slaves to be sold by executions, and making them assets for the satisfaction of simple contract debts, obliges the colonial courts to receive evidence of debts not admissible by the laws of this country. No law is of more frequent use in the West Indies; yet Mr. Bryan Edwards, the champion of the assemblies, when he obtained, in 1797, a repeal of a particular clause of this act, did not complain of, but by plain implication admitted, the authority of the rest.

Such also are the statutes, 25 Geo. II. cap. 6, which extended to the colonies, the provision for proving wills attested by interested witnesses; 14 Geo. II. cap. 37, prohibiting stock

It would, to be sure, be a strange boundary line of constitutional legislation by the supreme power, that should divide its lawful from its unlawful exercise, by the nature of the subject; and yet our objector must contend for this, and more. As the Abolition Act is of a commercial nature, he must also deny the fitness or necessity of a registry to give effect to that law, and must maintain that the power of Parliament is circumscribed not only by the nature of the object, but by the suitableness or necessity of the means.

Subordinate authority, though of a legislative nature, may be so limited; as in the case of corporation bye-laws; but who is to decide, in the case of the Parliament, whether it exceeds the limits of its jurisdiction? Are the courts of law in the colonies to adjudge that a British statute is not binding in respect of its subject, or its practical means, when the King, Lords, and Commons, have held the reverse? Or, supposing an appeal, is the King in his Privy Council to reverse that

subscriptions, transfers, &c. there; the 12th Geo. III. cap. 20, which provides for the case of persons standing mute upon arraignment in the criminal courts of the colonies; the 13th Geo. III. cap. 14, which enables aliens to lend money on real estates there, and regulates the mode of enforcing their mortgages in the colonial courts; the 14th Geo. III. cap. 79, which gives validity to mortgages of estates there, though made in England, at more than our legal interest, and which expressly directs the *registration* of such mortgages within the colonies; with other acts that might be added.

rule, which, as one of the co-estates in Parliament, he has concurred in ordaining?

These difficulties were softened, if not solved, in the case of taxation, by a distinction drawn from the anomalous nature of a tax act, and from the first principles of our free constitution. "Taxation" (argued Lord Chatham) "is no part of the governing or legislative power. Taxes are a voluntary gift and grant of the Commons alone. In legislation, the three estates of the realm are alike concerned; but the concurrence of the Peers, and the Crown, to a tax, is only necessary to clothe it in the form of a law. The gift and grant is of the Commons alone."

If this be not quite satisfactory, how much less so, the distinction between an act of Parliament which compels the registering of a ship built in the colonies, and an act of Parliament which compels the registering of a negro born there; between the declaring that Africans shall not be bought or held in slavery within a West-India island, and providing a mean there to enforce the prohibition?

Some of the many precedents which never were the subjects of complaint, approach closely to the specific purpose of a registry of slaves. In point of analogy they cannot well be closer.

A naval officer, for instance, has been constituted in every island, to assist and check the go-

vernors and colonial custom-houses in executing the laws of navigation and trade*. The whole system almost, of fiscal police, as administered in port or on shore by officers of the customs in England, has been extended to the colonies by stat. 7 and 8. Will. III. cap. 22, § 6, and other more modern statutes. Stronger still, special jurisdictions have been constituted there, unknown to English law, and subversive of the trial by jury, in all cases of seizures under these statutes. To surmount those difficulties in their execution, which restrictions offensive to popular feelings, and adverse to local interests, could not fail to meet, means of that extraordinary kind have been devised and followed up from the 8th year of William III., to the present period. The Abolition Acts 46 Geo. III. cap. 52, § 17, and 47 Geo. III. cap. 36, § 13, pursued in this respect, but did not exceed, the strong precautions of very numerous former statutes, many of them passed in the present reign, and subsequent to the American war.

Why the establishment of vice-admiralty revenue courts, should be tacitly acquiesced in, and the inoffenive measure of a registry, when directed to the same end, objected to, cannot be easily explained; except on the true hypothesis, that the end is extremely disliked, and the registry known to be the only effectual mean.

* 15 Car. II., cap. 7, § 8; 7 and 8 Will. III, cap. 22, § 5.

Since principle and practice, both thus clearly support the legislative authority in question, what objection to it, on legal or constitutional ground, can remain to be answered?

We are aware but of one; and that is an objection resting upon a mistake as to historical fact, which a reference to the statute-book will remove?

Some persons, when told that such a doubt has been raised, have inclined for a moment to adopt it, from an imperfect recollection of the grounds of the American quarrel, and of the concessions that were fruitlessly made on the part of Great Britain. "Did we not," such persons have asked, "assert a general legislative authority over the colonies, and did we not afterwards expressly renounce it?"

To answer that question satisfactorily, and to put all doubts on this score for ever at rest, it may be proper to state all that Parliament has ever done, or declared in the abstract, on this constitutional question.

The assemblies having taken upon them, prior to the 7th and 8th Will. III. cap. 22, to pass certain acts militating against the provisions of our navigation and trade laws, it was by the 9th section of that statute enacted and declared, that "all laws, bye-laws, usages or customs, in any of the plantations, against the provisions of this or any other act of Parliament made, or to be

hereafter made, so far as such acts shall relate to and mention the said plantations, are illegal, null and void, to all intents and purposes whatsoever."

Thus the law stood, in point of express general rule, and thus it was invariably held and acted upon, till the Stamp Act, and other tax-bills, had given rise to the dispute with the North-American colonies. The controversy then turned, as has been already observed, not on the general right of parliamentary legislation, but on that of imposing taxes; and so the act next mentioned in its preamble recites. But Parliament, thinking it best to maintain the particular, as a branch of the general right, passed as a pledge of its firmness the general Declaratory Act (6 Geo. III. cap. 12), asserting, that "the King's Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons of Great Britain in Parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the Crown of Great Britain, *in all cases whatsoever*."

In consequence of the events of war, between the passing of this act, and the year 1778, it was thought necessary, for the sake of conciliation, to recede from, or at least partially to qualify, this assertion of legislative authority. The Act

18 Geo. III. cap. 12, was therefore passed; which, without repealing the Declaratory Act, enacts or promises, " that, after the passing of this act, the King and Parliament of Great Britain will not impose any duty, tax, or assessment whatever, payable in any of his Majesty's colonies, provinces, and plantations in North America or the West Indies; except only such duties as it may be expedient to impose for the regulation of commerce: the net produce of such duties to be always paid and applied to and for the use of the colony, province, or plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective general courts, or general assemblies of such colonies, provinces, or plantations, are ordinarily paid and applied." This Act also, in its preamble, recites the right of taxation by Parliament as the only subject in dispute.

Unfortunately, this concession was ineffectual; not, however, because it was too sparing, but because it came too late to have the desired effect. In America, the republican party and the friends of French connection had prevailed; and if Parliament had in that act renounced the right of making laws to bind the colonies in any case whatever, that virtual abdication of sovereignty over them would not have averted their express and open independence.

After the statement of these facts from the sta-

tute book, it may be thought, perhaps, that all our former reasoning was superfluous. The right in question, far from having been shaken by any parliamentary concession, as some persons have erroneously supposed, has been perseveringly asserted and maintained by Parliament, even under circumstances of the greatest difficulty, by its express and repeated declarations, as well as by its uniform practice.

The political prudence of now adopting the proposed measure by Act of Parliament, is the only remaining point which we proposed to consider.

It having been shewn that a registry of slaves is the necessary mean of giving effect to the abolition of the slave trade, ought Parliament immediately to exercise that right which it clearly possesses, by establishing such a registry in all our colonies?

Since the measure is proper in itself, the only question can be, by what authority it ought to be effected. And as the King has no authority to enact laws for colonies in which representative legislative assemblies exist, Parliament must either do the work itself, or leave it to the colonial assemblies.

To the latter course, there are many decisive objections; and among them, the disposition which

has been shewn to prevail in those petty bodies, and with the planters who elect them. The work, if left to them, certainly will not be done. The Crown may recommend; but we have seen that its recommendations are fruitless. Parliament may express its wishes by addresses, or in any other way short of actual enactment; and that wish will, as before, be treated with contempt.

Should the fear of the mother country taking the work into her own hands, now produce a less openly contumacious spirit than before, the fruit would be no better than ostensible and impotent laws. Registries would be established perhaps; but on such a defective plan, and with such inadequate legal sanctions, that the desired effect would be lost, and the system itself would be brought into discredit; nay, would be made perhaps a cover for those very frauds which it was designed to prevent. Besides, the authority that makes the law can repeal it. If a registry were established by act of assembly, the colonists might naturally therefore expect from their own representatives, some future suspensions or relaxations of its rules; and we have shewn how essential it is that a law to preclude the illicit importation of slaves, should be regarded as one of sure and perpetual force.

The assemblies, in the next place, are not only averse to the work, but unequal to it.

If, after the remarks that have been here offered, a favourable disposition could be supposed in

those bodies, their constituents, and the white colonists in general, would not suffer them to act upon it. They are not independent enough of the voice of the little societies for which they respectively legislate, to adopt, with safety to their seats, or even without danger to their persons perhaps, a highly unpopular law.

Another cause of their impotence is still clearer, and might be singly decisive. The separate colonial legislatures want that comprehensive jurisdiction, which is necessary to give full effect to the proposed registry, as a general system.

Each of those bodies can make laws for the colony only over which it presides: an act of Grenada has no force in Montserrat, nor an act of St. Kitts in Jamaica. We have now thirteen different colonies in the West Indies, including the Bermudas, which have their separate representative assemblies and councils, forming, with the governor, their interior legislatures; and in each of these colonies, the acts of the other twelve are as impotent as the laws of France.

How incompatible would this be with the perfection of the plan in question, even in a single colony, much more with its uniformity in all!

The legislature of Nevis, for instance, having no power to ordain that the slaves in the neighbouring islands of St. Kitts, Montserrat, or Antigua, shall be registered according to rules adopted by itself, could take no security that slaves should

not be fraudulently put on the registers of those islands, to be transferred by exportation to its own. Nor could it, on the other hand, declare, that negroes, cleared out as slaves from either of those islands, shall not be imported into Nevis. British statutes, as well as royal instructions, must be repealed, before precautions like that could be taken, by one colony disposed to adopt the registering system, against its fraudulent evasion through importations from other British colonies; if they should choose to reject it, or to adopt it in an insecure or evasive mode.

Still less could the *remedies* be extended into another jurisdiction. A St. Vincents register act could not appoint that an offence against itself might be punished in the courts of Grenada, if the offender were found in that island; or that a negro enfranchised in consequence of non-registration in St. Vincents, should be free if carried to Dominica.

In these, and other views, there would be a natural repugnance in every island to take the lead in the measure proposed; lest the rest should not follow the example, or not with equal effect. For, in that case, the good consequences to the reforming colony would be greatly impaired, while the inconveniences would be seriously felt. Islands that continued to act on the old system, would have very unfair advantages over those which had exchanged it for the new.

Let it be supposed even that all the British colonies were disposed to register their slaves, and to do it simultaneously; still these difficulties would be felt; for what pledge could they give to each other that such unanimity of intention existed, and would produce a practical uniformity in their respective laws? What congress could form a treaty between them for that purpose? What power could guarantee its execution?

Nor would the difficulty end here. If a perfect uniformity of laws could be assured to them, and actually obtained; if the order in council for Trinidad were enacted *totidem verbis* in every British colony; still a mutuallity of rights and remedies under their respective register acts, and a co-operation of their courts to enforce them, could not be derived from the acts of their separate and mutually independent legislatures. The correspondence of their respective laws would not obviate the practical objections before stated, so as to make an offence against the register act of one island punishable by the courts of another.

Besides, to make the system effectual and complete, offences must be constituted, remedies given, and establishments formed, beyond the local limits of all those insular jurisdictions. None of them, for instance, has a right to declare that negroes shall not be carried on the high seas as slaves, though brought from a British island, unless they shall first have been duly registered there,

and cleared out on the registrar's certificate; or to enact, that, if so carried in a British ship, she shall be liable to seizure at sea. Yet who can doubt, that, supposing the registering system universal, this would be a proper provision?

Again: a general public registry for colonial slaves to be kept in a public office in England, has been shewn to be an essential part of the plan. Without it, British mortgagees and creditors, or purchasers, would not be perfectly safe. But it is obvious that Parliament alone can create and regulate such an establishment here. In the case of Trinidad, the want of it has been imperfectly supplied by directions for keeping the duplicate registry in the office of the Secretary of State; but no such expedient, imperfect and inconvenient as it is, can be formed by a colonial assembly, whose mandate the Secretary of State cannot recognize, and is not bound to obey.

Auxiliary regulations, also, of decisive influence, which might be easily grafted on such an establishment, and which ought to make part of the system, can be ordained by Parliament alone.

A more effectual mean, perhaps, than any other, of securing obedience to a register act, would be to prohibit the lending money, by persons resident in the United Kingdom, on the security of West-India estate and slaves, unless the latter shall appear by returns to the English office to

have been duly registered. To this measure the assemblies themselves will hardly object as exceeding the fair exercise of the authority of Parliament.

Without any further examples, it will be abundantly clear that the limited local extent of the colonial jurisdictions would alone make the assemblies unfit instruments of the work in question, were they ever so willing, and in other respects able, to perform it.

The legislatures of the Leeward Islands have themselves admitted this species of unfitness, and attempted a partial remedy for it, in a case relative to the same subject with the present.

When, in the year 1798, they were called on to meliorate the condition of their slaves, and affected to listen to the call, they all, being five in number, represented to their common governor the expediency or necessity of having, in such a case, a uniformity or identity of laws; and requested, that, for this end, a general council and assembly of all the respective islands might be convened at St. Christophers, though there had been no precedent of such a measure since their separation into different legislative bodies, about a century before. That extraordinary general legislature was accordingly convened; and passed an act for the protection and preservation of slaves. Its provisions, indeed, were for the most part illusory; but this cannot impeach the principle of the extraordinary convocation itself. Now, the same

principle evidently would have led to the convoking a colonial legislature competent to make laws for all the British West-India Islands collectively, had that been possible. But no such legislature having ever existed, and the comprehensive power of Parliament alone being competent to bind them all, the same reasons of convenience plainly call for the exercise of that power in the case before us.

The principle here indeed applies with much greater force; for in the case of the Leeward Islands, convenience alone, not necessity, demanded the legislative union. There was nothing in the proposed work that required the hand of a legislature competent to regulate the mutual intercourse of the colonies with each other, to give powers of seizure at sea, or to create establishments for any auxiliary purpose in England.

This last argument, for the expediency of Parliamentary interposition, would be strong enough to support even the constitutional right, if, after what has been already offered, any doubt could possibly remain on that point. When a legal question arises between two colonies, which can be determined by the Courts of neither, as in a dispute about boundaries, the King in Council exercises an original jurisdiction, though from the constitution and practice of that Court very

inconvenient, merely because there is no other resort*.

But if it be a sound consitutional maxim, that there must always reside somewhere a judicial jurisdiction, the same may be affirmed of the legislative. A want of power, therefore, in the assemblies, would serve to demonstrate the constitutional power of Parliament.

But resting the right upon the other and irrefragable reasons that have been offered, we have here at least a consideration of expediency, which it will be impossible to repel. It cannot be denied, that the registry may be made much more effectual by the means which have been already indicated, or that uniformity and mutuality in our colonial institutions on this subject are highly desirable, if not indispensably necessary; and these are *desiderata* which Parliament only can supply.

It is, perhaps, superfluous to add, as a further consideration, the great inconveniences that would probably flow from delay; and the length of time that must elapse before it would be possible to obtain the concurrence and co-operation of thirteen different colonies. It is at this moment, when peace and the revival of foreign slave trade make illicit importation far more easy than before, that a register act is most urgently wanted, in order to secure the effect, to obtain the

* Penn, and Lord Baltimore.—1 VEZEY, 446.

benefits, and demonstrate the sincerity, of our own reformation.

Nor is it less necessary to prevent reasonable discontent in our newly-acquired colonies. The registries of Trinidad, St. Lucie, and the Isle of France, will become fruitless of any good consequences, unless we either establish similar institutions in the other British colonies, or prohibit the carrying of slaves from the latter to either of the former; a restriction which would be disadvantageous and unjust to the islands where registries are established by the Crown. In other, and important respects, the distinction would be injurious, as well as invidious, to those new colonies; and it is not too much to say, that, unless the system be now made general, the Orders in Council for registering slaves in the ceded French islands, at least, ought to be repealed. For all these reasons, the expediency of an immediate parliamentary interposition is not less apparent than the constitutional right.

The task we proposed to ourselves is now fully, though feebly, accomplished. A general registry of the slaves in the British colonies, has been shewn to be necessary to the guarding them from a contraband slave trade; to the maintenance

of their agriculture by innocent means; and to the preservation of the interesting hope that their opprobrious slavery will be henceforth so mitigated in practice, as to prepare the means of its future extinction. It has been further shewn, that this measure is clearly within the constitutional authority of Parliament; that it may most conveniently be taken by that authority; and that it neither will, nor effectually can, proceed from any other.

The question is not, By whom shall the law be passed? but, Shall the measure be adopted at all? Will you make it impossible that men shall be held in bondage, under the British Crown, contrary to law? Or shall man-stealers be encouraged to pursue their felonious and inhuman crimes, by the facility of holding their victims, when brought into our colonies, in perpetual and hereditary slavery?

Surely it is enough, after these observations, to appeal to principles on which all British subjects are now happily agreed; to the same moral principles upon which this country, to its immortal honour, has abolished the slave trade; and which we have so generously laboured to inculcate on other nations. A registry of slaves is in truth a plain, practical corollary from the abolition. In limiting the lawful sources of slavery to existing titles and their hereditary fruits, we virtually bound ourselves to take care that this limitation shall be

effectual within all the British dominions. We may not be able to obtain the same moral reformation in foreign territories; but it would be opprobrious not to secure it in our own. As philanthropists, we must deplore the continuance of the slave trade by other countries; but as moralists, it should cost us as much deeper regret, if even a small number of unfortunate Africans were carried into slavery by British subjects, and kept in bondage for life, within the dominions of his Majesty, through means which we had the power to exclude.

Humanity, also, would soon have reason to regard the latter mischief, with more concern than the former. If a general registry be not speedily established, the abolition will be fatally prejudiced in the eyes of foreign powers, who will carefully watch the effect of the experiment we have made. The existing stock of slaves in our islands, instead of being kept up and increased by natural means, through a meliorated treatment, will, by perseverance in former habits on the part of their masters, be rapidly reduced; unless smuggling on a large scale should supply the want of legal importations. In the one case, our new system will be discredited by the ruin of our colonial agriculture; in the other case, by the inefficiency of our laws. In either case, foreign governments will be deterred from following our example. They will ascribe

the failure, not to the defect of our means, but to the impracticability of our object; and the British Abolition, instead of delivering Africa from the slave trade, may rather tend to make its ravages eternal.

Let the system, then, that has been wisely begun by his Majesty's Government, be immediately followed up by Parliament. It is due to half a million of human beings, whose bondage we are bound to alleviate: it is due even to those benevolent masters who may otherwise possess the will, without the power, to reform existing abuses: it is due to Africa, which has so deep an interest in the credit of the British Abolition: and, above all, we owe it to ourselves; to those high principles of public conduct which have exalted us among the nations of the earth, and recommended us, as we may humbly hope, to the protection and favour of Heaven.

THE END.

Ellerton and Henderson, Printers,
Johnson's Court, London.