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# SLAVERY IN THE PROVINCE OF SOUTH CAROLINA, 1670-1770.

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EDWARD McCRADY,
OF CHARLESTON, S. C.

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(From the Annual Report of the American Historical Association for 1895, pages 631-673.)

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# SLAVERY IN THE PROVINCE OF SOUTH CAROLINA, 1670-1770.

By Edward McCrady.

Sir John Yeamans was the first who introduced African slaves into Carolina. These he brought from Barbados in 1671 to cultivate his plantation on Ashley River.[1] But the institution of slavery in America was contemporaneous with the planting of the colonies; nor was the form of servile labor which was first introduced that which ultimately prevailed. In the early days of Massachusetts, Virginia, and Maryland, as well as in South Carolina, the slave was not a negro, but an Englishman condemned, either penally or by contract, to a limited period of bondage. At the outset this class was supplied from two sources. A few were felons, usually those with whom capital punishment had been commuted to colonial servitude. These, however, were not numerous, and probably had but little effect on the general character of the population. The bulk of the indented servants were laborers who bound themselves for a fixed term of service, with the certainty of becoming small freeholders at the end of that period.

Gradually the system changed. The great tobacco plantations of Virginia needed a larger servile population than could be provided by the chance supply of pardoned criminals. As has been observed, there were few ages of English history in which this resource would have insured so constant a supply as in the latter half of the seventeenth century. The field of Dunbar in 1650, Penruddock's attempt against the Commonwealth in 1655, the Scotch rebellion in 1666, the rising in the west under Monmouth in 1686, the Jacobitic insurrection in 1715, each furnished its share of prisoners to the colonies. But the demand was far in excess of such precarious aids.

[1] Ramsay, Vol. I. 35; Historical Sketches of South Carolina (Rivers), 104.

and, as might have been expected, it soon produced a regular organized supply. It became a trade to furnish the plantations with servile labor drawn from the offscourings of the mother country.[1] By an act of Parliament of 1718, offenders who had escaped the death penalty were handed over to contractors, who engaged to transport them to the American colonies.

In the proposals made to all such persons as should undertake to become the first settlers "in the province of Carolina to the southward and westward of Cape Romana," in Hilton's Voyage, 1663, 500 acres of land were offered for every 1,000 pounds of sugar, provided that the person so subscribing should "within five years next ensuing have one person (white or black, young or old) transported at their charge as aforesaid on that or some other parcel of land in the province." Fifty acres of land were offered for every manservant carried or sent. To every manservant who should go with the first adventure, 50 acres; to such as would go with the second adventure, 30 acres; and for all other servants that should go within the first five years, 20 acres, and for every woman servant, 10 acres. To the owner of every negro man or slave brought thither within the first year, 20 acres, and for every woman negro or slave, 10 acres; and all men negroes or slaves after that time and within the first five years, 10 acres; and for every woman negro or slave, 5 acres.[2] And so in "A list of all such Masters, free passengers, and servants which are now aboard the *Carolina*, now ridinge in the Downes, August 10, 1669," sent to Lord Ashley by Joseph West, when setting out on his voyage with the first colonists, we find seventeen masters with sixty-two servants and but thirteen other emigrants with no servants.[3] In an extract from the journal of the grand council we find this adjudication upon the case of one of the servants who came out in this way under the terms of the proposals:

June 8, 1672, Mr. Thomas Norris, Anthony Churne, and Samuel Lucas came this day before the Grand Councill and made oath that they were privie to the contract between Richard Deyos and Christopher Edwards, his servant, and that the said Christopher Edwards was to serve the said

[1] English Colonies in America (Doyle), 382; Bancroft, Vol. I (ed. 1883), 125.

[2] Hilton's Voyage of Discovery. Charleston Yearbook (Courtenay), 1884, pp. 228, 229.

[3] The Voyage of the Colonists. Charleston Yearbook (Courtenay), 1886; pp. 246–249.

Richard Deyos the term of two years in this Province, to commence from the time of his arrival there, and ended on the 17 March last past.

The said Christopher Edwards is therefore reputed a Freeman, and has liberty granted him to take warrants for the land due him in the Province aforesaid.[1]

The privy council in England, May 27, 1684, ordered the commissions of Glasgow and Dumfries to sentence and banish to the plantations in America such of the rebels as appeared penitent, in the ship belonging to Walter Gibson, merchant. The greatest cruelty to these poor creatures, thirty-two in number, was exercised by Capt. James Gibson, who commanded the vessel. An incident occurred in this shipment of prisoners illustrative of the common danger to which all people in Great Britain were subject from the rapacity of those engaged in the nefarious business of supplying the colonies with white slaves. While the ship was lying ready to sail from the Clyde Elizabeth Linning came down to visit the prisoners, some of them being her relatives, she was seized by Captain Gibson's order, but succeeded in escaping to shore, whereupon Gibson sent ashore, recaptured her, and carried her to Carolina with the other prisoners for the purpose of selling her. She appears, however, to have been a person of some force and decision of character, for immediately upon the arrival of the vessel she found an opportunity of appealing to the governor, and informed him of her capture and of the intention of the captain to sell her. The governor took up the case at once, and cited the captain before him and his council. There he was closely interrogated as to the circumstances of her imprisonment and transportation, and failing to satisfy the council, the following order was made by that body:

At a council held at Charles Town, October of 1684, upon the reading of the petition of Elizabeth Linning against Captain James Gibson, commander of the *Carolina*, merchant, in full council, it was ordered as follows:

Whereas upon the confession of Captain Gibson that the within-written Elizabeth Linning was, without the consent of the said Elizabeth, brought to this province by force and by a pretended order from Lieutenant-Colonel Windram, but the said Gibson producing none, it was ordered that the said Elizabeth be set at liberty as a free woman.[2]

In 1686 the first act relating to servants and slaves was passed in Carolina. It was entitled "An act inhibiting the

[1] Historical Sketches (Rivers), Appendix, p. 379.

[2] Howe's History Presbyterian Church, pp. 82–83.

trading with servants or slaves." Some of its provisions applied to white servants, others to slaves (who were either negroes or Indians). It prohibited any free man or free woman, servant or slave, to buy or sell or trade with any servant or slave during his servitude without the privity or consent of the master. If servants traded together, both buyer and seller were to serve their masters, respectively, one whole year more than their contracted terms. If the offender was a free man or free woman, he or she was to forfeit three times the real value of the thing bought or sold, to be recovered by due course of law, and the servant or slave to abide such punishment, not extending to life or limb, as the grand council or any two justices of the peace (one of whom being of the grand council) should deem fit. If a servant embezzled, wasted, consumed, or destroyed any of his master's goods, such servant was required to serve so long a time after the expiration of his term as any three justices of the peace (one of whom being a member of the grand council) should judge proper to make satisfaction. For striking a master, mistress, or overseer a servant was to be condemned by the grand council to serve one whole year over and above the contracted time of servitude. Servants absconding were to serve twenty-eight days above the contracted term of servitude.[1] Of the provisions of this act in regard to slaves we shall speak hereafter.

To avoid fraud between masters and servants when servants arrived in the province without indentures or contracts, an act was passed in 1687 prescribing terms of servitude.[2] In 1691 these acts were revised. The punishment for servants absenting themselves was increased, and they were required to serve one whole week for every day of absence and one whole year for every week over and above the contracted term of service. Other provisions were added in favor of the servants. It was provided that if any master, mistress, or overseer should, under the pretext of correction, whip or unreasonably abuse a servant, such servant complaining to the grand council and making good his complaint might be set at liberty, or such other relief given as the grand council should think just. So if the master failed to give good, wholesome, and sufficient meat, drink, lodging, and apparel, the grand council might give the servant liberty or other relief.[3]

[1] 2 Statutes, S. C., p. 22. [2] 2 Statutes, S. C., p. 30. [3] 2 Statutes, S. C., p. 52.

The number of white servants coming into the province called for further legislation, and another act was passed in 1717[1] still further regulating the terms of service of those who came without contracts, and providing that at the end of his term of service a servant might demand a certificate of freedom. The penalty for refusing such a certificate appears, however, very slight. It was but 40 shillings in each case. While no person could be forced into servitude who had not obliged himself by contract, a person brought into the province by an importer was required to pay his passage money, with exchange, within twenty days after his arrival. A servant brought from any other colony was required to complete the term of servitude which he would have served in that colony and no more. Every person keeping a servant, whether by virtue of transportation, purchase, or otherwise, was required within six months to take such servant before the governor, one of the lord proprietor's deputies, or two justices to have his age determined and a certificate of it entered in the secretary of state's office. Without such certificate no master could claim but five years' service. The term of servitude was to begin upon the first anchoring within the province of the vessel on which the servant was imported. No bargain or agreement for a longer continuance of service was allowed to be made during the term of the first service. The same provisions were made in regard to the prohibiting of trading with servants. "Hired laborers" were included in the penalties for striking a master, and to former penalties was added the punishment of twenty-one stripes, to be inflicted by order of two justices of the peace. The time of increased servitude as punishment for running away was limited to two years over and above the contract term. But servants running away in company with slaves were to suffer as felons without benefit of clergy.

Suitable diet, clothing, and lodging were to be provided, and punishment was not to exceed the bounds of moderation. Upon any offense against these provisions servants might complain to a justice of the peace, who was to admonish the master for a first offense; for a second, two justices might levy and distrain a sum not exceeding £10, and for a third might sell and assign the time of such servant to some other white person.

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[1] 3 Statutes, S. C., p. 14.

Servants bringing goods into the province were allowed property in them, with the power of disposal. Masters were not allowed to turn away their servants upon pretense of freedom or otherwise so as to burden the parish, but were required to maintain them during the whole time the servant had to serve. The white father or mother of a mulatto child, whether free or servant, it was provided by this act, if free, should become a servant for the term of seven years; if already a servant, should serve for that additional period.

The act prescribed the clothing the master or mistress should allow the servant upon the expiration of the term of servitude. Disputes between masters and servants concerning contracts, wages, freedom, or any other matter of difference were both heard and determined by any two justices of the peace, with an appeal by either party to the governor and council.

Such was the code regarding white servants, which remained the law until 1744, when, under Governor Glen's administration, it was again revised and supervised by a more elaborate act.[1] The principal features of the act of 1717 were retained in the new code, but some of its provisions were rendered more stringent. The additions to the law were chiefly in regard to runaways. No servant was allowed to travel above two miles from his residence without a note under the master's hand. Every person was authorized to apprehend anyone suspected of being a fugitive servant, and forthwith to conduct such person to the nearest justice of the peace, who was required to examine and inquire, in the best manner he could, whether such person was really a fugitive servant or not. If he appeared to be a fugitive, the justice should immediately order him to be whipped, not exceeding twenty stripes, and deliver him to the constable, to be returned to his master, or to the constable of the next parish, if the master resided in another, and so until he reached his master. If a servant should offend by running away more than once, the first constable in whose hands he fell was required to inflict the twenty-one lashes, and each succeeding constable seven more. No ferry was allowed to be kept without one free white man in attendance, and no servant was allowed to be ferried without a note from his master.

These provisions caused not only inconvenience but danger to white freemen traveling abroad. A strange white man

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[1] 3 Statutes, S. C., p. 621.

appearing in a community was liable to arrest and summary ignominious punishment, either through mistake or malice, and so it was provided that justices of the peace should issue certificates or passports to freemen intending to travel. The servant traveled upon the master's certificate; the freeman upon that of a justice of the peace.

In 1716, that is, the year after the Indian outbreak, an act was passed[1] reciting that sad experience had taught that the small number of the white inhabitants of the province was not sufficient to defend it against their Indian enemies; and as the number of slaves was daily increasing, which must likewise endanger its safety if speedy care were not taken to encourage the importation of white servants, and providing a bounty of £25 for each white servant who had no less than four years to serve after his arrival in the province, and for all who were imported within two years after the ratification of the act, an additional £5 per head. Every owner of a plantation to which ten slaves belonged, young or old, was required to take from the public receiver, who had the disposal of them, a white servant when it fell to his lot to do so, and to pay the receiver such price for the servant as the receiver gave to the importer for the same.

The owner of every plantation to which twenty slaves belonged was required to take two white servants, and so in proportion. But still so strong was the prejudice against Roman Catholics that not even to increase the white population would the colony allow their introduction. The act provided especially that no person should be required to purchase Irish servants that were papists or persons convicted in England or elsewhere of capital crimes. So earnest were the colonists of the time against popery, even in servants, that merchants and masters of vessels were required to declare upon their oaths that to the best of their knowledge none of the servants imported by them were either what was commonly called native Irish or persons of known scandalous character or Roman Catholics. "Irish servants being Protestants" might be imported.

The agent of the colony in England petitioned for some of the persons taken in the Scottish rebellion, and in June, 1716, Deputy Governor Daniels informed the assembly that he had bought of the Highland Scots rebels at £30 per head, and wished for power to purchase more. The assembly sanctioned

[1] 2 Statutes, S. C., p. 646.

his purchase, but wished no more "till we see how these will behave themselves."[1]

This attempt to prevent the too great disproportion of whites and blacks continued to the time of the Revolution. It was, however, but partially successful. Notwithstanding the recital of the act of 1717 of the great number of white servants which had arrived in the province, comparatively few came until the settlement of the Swiss and German in Saxe-Gotha and Orangeburg. But some did come. We find some curious advertisements in the Gazette for runaway white servants, as well as for runaway negroes.

Alexander Vanderdussen, one of the King's council, advertises July 27, 1734:

Whereas Thomas Butler Fencing Master has been runaway these two years since, and has been entertained by several gentlemen about the Ferry who pretend not to know that he had a master, this is therefore to desire that they would not do the like in the future. And any one that takes the said Butler and brings him to Goose Creek or Charles Town will have 10 *l.*

On the 30th of August, 1734, this appears:

To be sold. A white man servant's time. He is a taylor by trade and a very good workman. Enquire of Hugh Evans Taylor in Church St Charlestown.

No sale was, however, effected under the advertisement, as appears by this subsequent notice:

Run away on Tuesday the 12th instant from Hugh Evans Taylor, in Charlestown a servant man named John Thompson, a Taylor by trade about 21 years of age, fresh colored well set and nigh six foot high, squint eyed speaks broad Scots and stutters in his speech; he had on when he went away drab fly coat, bright colored worsted stockings, a new pair of shoes, a high colored natural whig. Whoever takes up the said servant and brings him to the said master in Charlestown shall have 20 *l.* paid by—Hugh Evans.

Again, on the 7th of December, 1734, there appears this notice:

Just imported and to be sold by Hutchinson & Grimke Irish servants, men and women of good trades from the North of Ireland, Irish linen, household furniture, butter tea china ware and all sorts of dry goods on reasonable terms.

On the 29th of March, 1735, are advertised as runaways:

Two Irishmen servants both talking broad Scotch one named *Roger O'Mony* a tall pock fretten freckle-faced Fellow stooping in the shoulders his hair cut and wore a linnen cap, a dark brown colour'd Coat and West-

[1] Historical Sketches of South Carolina (Rivers), p. 276.

coat, leather breeches, and a new pair of Negro shoes, he had a double thumb with two nails on one hand. The other named Alexander Sinkler a short thick well set surly looking brown hair'd smooth faced sharp long nosed fresh coulored fellow wearing a dark gray coarse karsey new coat with buttons of the same, a pair of old brown breeches a pair of gray yarn stockings and a pair of new Negro shoes with two or three lifts, each of them about 24 or 25 years old, and also two negro men, *l*. 10 reward for them. N. B. Hue and Cry are gone after them.

These are only samples of such advertisements; there are others. As late as 1766 advertisements appear for the sale of indentures of about 220 Palatine servants just imported from Rotterdam. Among them are said to be farmers, millers, bakers, brewers, masons, smiths, carpenters, joiners, coopers, tailors, weavers, shoemakers, saltpeter makers, potash makers, some in families and others single; also boys and girls.[1]

Some of the best and most useful immigrants were persons who, too poor to pay their passage money across the ocean, were brought to America by captains of vessels, and sold on their arrival to anyone who desired to secure their labor. These were called "redemptioners." The price for which they were sold in Carolina was usually from £5 to £6. Both men and women were thus alike sold to service, from which they redeemed themselves by hard labor for a period of from three to five years. A large part of Purry's unfortunate colony, and of the Swiss and Germans who settled Orangeburg and Saxe-Gotha, now Lexington, were of this class.

The advantages, it has been observed, were mutual. Passing on into what was then the frontier, these people formed a defense to the country against the inroads of the Spaniards and Indians; and as many of them were excellent farmers and some useful artisans, and all of them hard-working people, they speedily settled and improved the country. On the other hand, as they were the poorer class of the people at home in Europe, they had nothing to risk in the shape of property. They would have remained in the same condition had they not emigrated, whereas by coming, even under this arrangement, they enjoyed the flattering prospect of securing competency, if not, indeed, wealth, at some future day. Then, again, their servitude became their apprenticeship in America, while they learned the English language and became acquainted with the laws and customs of the new country.[2]

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[1] South Carolina Gazette and Country Journal, January 14, 1766.

[2] History of German Settlements, etc. (Bernheim), pp. 131, 132.

"Yet it must be confessed," continues the author from whom we quote, "these poor settlers had to endure many hardships. Often were they rigorously treated by their ship captains; ill and insufficiently fed on their voyage across the ocean and on shore before they were purchased for their services; exposed publicly for sale as the African slave; often treated harshly by their masters who purchased them, and compelled to labor in the broiling sun of a Southern climate—many by disease and death closed their short earthly career." Several instances are cited of neglect and inhumanity on the part of the captains of vessels who brought out these people in which the Government interfered and protected the redemptioners.[1]

The slavery of the white man in the colonies was temporary, though rigid while it lasted, but that of the Indian and negro was absolute.

The enslavement of the Indian in America preceded the importation of negro slaves. The play, or opera (as it was termed), of Inkle and Yarico, the plot of which turns upon the capture of two beautiful savage women in the forests of America and their abduction and transportation to Barbados, was criticised because its first scene was laid in America instead of Africa.[2] But Coleman, the author of the play, which, it is said, was performed with success in every theater in England, and was popular because of its moral, before Wilberforce advocated the abolition of the slave trade, and had, it was claimed, the peculiar honor of preceding that movement, was a better historian than his critic. The mistake of the criticism was in assuming that the captive maidens were negresses, which is not intimated in the play. "The charming heathens, Yarico and Woroske," who were lured to Barbados were supposed to have been Indians and not Africans. The story, though embellished by the creative imagination and descriptive powers of Addison, was indeed founded upon historic fact.[3] The incident of which the playwright made so much at the time was probably not even an uncommon one. Indeed, the first Europeans who trod the soil of Carolina were Spaniards

[1] History of German Settlements, etc. (Bernheim), p. 134.

[2] Inchbald's British Theater, Vol. XX.

[3] See the story in Ligon's History of Barbadoes, p. 55.

who had sailed in 1520 from Hispaniola for the purpose of securing in the island of Lucayos a supply of Indians to take back with them to work as slaves in the gold mines.

NOTE.—The story of Inkle and Yarico, though embellished by the creative imagination and descriptive powers of Addison (Spectator, No. 11), and added to by Coleman, was indeed, if Ligon is to be believed, based upon historic fact. The story is thus told in Ligon's History of Barbadoes, p. 55:

"An English ship having put into a bay sent some of her men ashore to try what victuals or water they could find: but the Indians, perceiving them to go far into the country, intercepted them on their return, and fell upon them, chasing them into a wood, where some were taken and some killed. A young man, whose name was Inkle, straggling from the rest, was met by an Indian maid, who upon the first sight fell in love with him, and hid him close from her countrymen in a cave, and there fed him till they could safely go down to the shore where the ship lay at anchor, expecting the return of their friends. But the youth when he came to Barbadoes forgot the kindness of the poor maid who had ventured her life for his safety, and sold her for a slave. And so poor Yarico for her love lost her liberty."

Ligon, describing her, speaks of "her excellent shape and colour, which was a pure bright bay; and small breasts, with nipples of porphyrie." The story goes on, however, to tell that the Indian maiden did not long mourn her faithless lover, but soon consoled herself with others.

It was the observation of the horrors inflicted upon the Indian slaves in the Spanish West Indies that induced the good Las Casas, the early friend of the red man, to remonstrate with his Government against the system and to urge the importation of negroes accustomed in their native land to a state of bondage.

Indian captives everywhere in America were enslaved. Among the "fundamentals," or body of liberties, adopted in Massachusetts as early as 1641 we find the distinct recognition of the lawfulness of Indian and negro slavery, as well as an approval of the African slave trade.[1] The articles of the New England Confederacy in 1643 not only provided for the return of fugitive slaves, but classed persons among the spoils of war, and the strictest morals of the day doomed captive red men to slavery.[2] In 1650, Indians who failed to make satisfaction for injuries in Connecticut were ordered to be seized and delivered to the injured party, "either to serve or to be shipped out and exchanged for negroes, as the case will justly bear."[3] So, too, Indians were doubtless taken and held as slaves in

[1] Cobb on Slavery, p. cxlvii; 1 Hildreth's History, p. 278.

[2] Bancroft, Vol. I (ed. 1883), pp. 125–293.

[3] 1 Hildreth, p. 372.

Carolina. In 1684 Maurice Mathews, James Moore, and Arthur Middleton were displaced from the council for sending away Indian slaves[1]—not because the kidnapping of Indians was deemed wrong in itself, but because they were trespassing upon the privileges of the proprietors in the matter. The provisions of all the acts in regard to slavery from 1690 onward are made to apply to Indian as well as to African slaves. Sir Nathaniel Johnson, the governor, and his council wrote to the lord proprietors on the 17th of September, 1708, giving an account of the condition of the province, in which they state:

> The number of inhabitants in this province of all sorts are computed to be 9,580 souls, of which there are 1,360 freemen, 900 free women, 60 white servant men, 60 white servant women, 1,700 white free children, 1,800 negro men slaves, 1,100 women negro slaves, 500 Indian men slaves, 600 Indian women slaves, 1,200 negro children slaves, and 300 Indian children slaves.
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> The freemen of this province, by reason of the late sickness, brought hither from other parts, though now very healthy, and small supply from other parts, are within these five years last past decreased about 100, free women about 40; white servants, from the aforesaid reasons and having completed their servitude, are decreased 50; white servant women, for the same reasons, are decreased 30; white children are increased 500; negro men slaves, by importation, 300; negro women, slaves, 200. Indian men slaves, by reason of our late conquest over the French and Spaniards and the success of our forces against the Appalaskys and other Indian engagements, are within these five years increased to the number of 100 and the Indian women slaves to 450, negro children to 600, and Indian children to 200.[2]

The white man served out his term, was declared a freeman, took out warrants for the land to which he was entitled, and became a citizen of the province. The Indian pined, sickened, and died. The African alone remained, improved, and prospered in slavery.

There were no African slaves in the colony until Sir John Yeamans brought over his from Barbados, but it can not be said that he introduced slavery into the province. Negro slavery was an existing and recognized institution in all the other colonies before that of South Carolina was planted.

Thirteen years after the first successful English colony was begun at Jamestown, in Virginia—that is, in 1620—a Dutch

[1] Historical Sketches of South Carolina (Rivers), p. 139.

[2] Ibid., p. 232; Collections Historical Society South Carolina, Vol. II, p. 217.

man-of-war landed twenty slaves and sold them to the colonists. These slaves and the Pilgrims in the *Mayflower* landed in America the same year—the slaves in Virginia and the Pilgrims in Massachusetts. As early as 1626 the West India Company imported negro slaves among the quiet burghers of New Amsterdam. The city itself owned shares in a slave ship, advanced the money for its outfit, and participated in the profits. The slaves were sold at public auction to the highest bidder, and the average price was less than $140. Stuyvesant was instructed to use every exertion to promote the sale of negroes.[1]

"That New York is not a slave State like South Carolina," said the great historian of the United States, "is due to climate and not to the superior humanity of the founders."[2] In 1637, negro slaves were imported into New England from Providence Isle.[3] The year after New Jersey was divided from New York—that is, in 1665—a bounty of 75 acres of land was offered by the proprietors for the importation of each able-bodied slave.[4]

Not even did the Quakers of Pennsylvania entirely eschew the holding of negro slaves. William Penn was a slaveholder. In his last will he directed his own slaves to be emancipated, but this direction was disregarded by his heir.[5]

Four of the proprietors of Carolina, the Earl of Shaftesbury, Earl Craven, Sir George Carteret, and Sir John Colleton, with Ralph Marshall and John Portman, who came out with Governor Sayle, were all members of the Royal African Company, of which James, Duke of York, was chief, and which was chartered and given the sole trade in slaves on the African coast.

Negro slavery being thus a recognized institution in all the colonies, it was assumed that it would exist also in Carolina; and so we find the philosopher Locke and his friend Shaftes-

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[1] Cobb on Slavery, p. clxix.

[2] Bancroft (ed. 1883), Vol. I, p. 513.

[3] Ibid. (ed. 1883), Vol. 1, p. 293. The edition of the News Letter, published in Boston, for the week from May 22 to May 29, 1710, contains but one advertisement, which is this:

"*Advertisement.*—Two negro women, one aged about 25 and the other abut 50 years old, to be sold by Mr. Wm. Clark, junior, merchant, to be seen at his house, Common street, Boston." (The Newspaper Press, William L. King, p. 12.)

[4] Cobb on Slavery, supra.

[5] Bancroft (ed. 1883), Vol. I, p. 572.

bury, in their proposed fundamental constitutions of 1669, two years before the first negro was brought to the colony, providing that "*every freeman of Carolina shall have absolute power and authority over his negro slaves, of what opinion or religion soever.*"

The significance of this provision was not in the recognition of slavery as an institution in the province—that was assumed—nor yet in the absolute power it proposed to give to the freeman over his slave, great as that was, but in the last words, wherein it was intended to provide against the effect of the possible conversion and baptism of the negroes. A doubt had arisen and prevailed extensively upon this point. The idea was that as the enslavement of negroes was mostly justified on the ground that they were heathen, upon their becoming Christians they would be enfranchised. It is curious to observe the effect of this scruple, which appears to have been an honest one. Some Christian masters, rather than offend their conscience by holding fellow-Christians in slavery, withheld the gospel from their people, lest they might hear and believe and be converted and become as one of them. We shall see directly how church and state agreed in dispelling this idea.

With the slaves which Sir John Yeamans and others brought over from Barbados and the other West India Islands they brought with them the slave code of those islands, especially that of Barbados, from which place most of the customs and institutions of the province of South Carolina were derived. The first statutory provision in South Carolina in regard to slaves was that of the act of 1686, already mentioned, inhibiting trading with them and declaring that it should not be lawful for a negro or other slave to travel or go abroad from the owner's house between sunsetting and sunrising without a note from the master, mistress, or overseer, and authorizing any person to apprehend any such and reasonably to chastise and correct such slave and cause him to be sent home.

On the 29th of April, 1668, an act was passed in Barbados declaring negro slaves real estate, and not chattels, and enacting that they should descend to the heir and widow of any person dying intestate, according to the manner and custom of lands of inheritance held in fee simple.[1] This provision was

[1] The Laws of Barbados.

followed to a modified extent in South Carolina in this curious clause of the act of 1690, viz:

*And it is further enacted*, That all slaves shall have convenient clothes once every year, and that no slave shall be free by becoming a christian, but as to payment of debts shall be deemed and taken as all other goods and chattels, and when other goods and chattels are not sufficient to satisfy the said debts, then so many slaves only as are necessary, as well proportionately out of the slaves assigned for dowry, as those that belong to the heirs and executors, shall be sold for payment of debt, and all negroes and slaves shall be accounted as freehold in all other cases whatsoever and descend accordingly.[1]

And so it was that President Middleton declared to the Spanish ambassador, in 1725, that negroes were real property, such as houses and lands, in Carolina.[2] They were nevertheless always returned as personal property in the inventories of intestates, as the records of the ordinary's or probate office in Charleston abundantly show. This condition continued until 1740, when it was declared that negroes and Indian slaves should be reputed and adjudged in law to be chattels personal in the hands of their owners and possessors and their executors, administrators, and assigns.[3]

On the 8th of August, 1688, "an act for the governing of negroes" was adopted in Barbados,[4] which served as the basis and model of all the legislation in South Carolina upon the subject. The first attempt in providing a slave code for this province was made under Sothell in 1690. It followed generally the Barbadian act of 1688;[5] but was superseded by the more elaborate act of 1712 under the administration of Governor Charles Craven.[6] Hildreth, commenting upon enactments of 1712 in Pennsylvania and Massachusetts imposing prohibitory duties upon the importation of Indian and negro slaves, observes:[7] "Contemporaneously with these prohibitory acts of Pennsylvania and Massachusetts, the first extant slave law of South Carolina was enacted, the basis of the existing slave code of that State." He writes:

"Whereas," says the preamble of this remarkable statute, "the plantations and estates of this province can not be well and sufficiently managed

[1] 7 Statutes, pp. 343, 344.

[2] Hewatt, Vol. I, p. 314.

[3] 7 Statutes, p. 397.

[4] The Laws of Barbados, act No. 82.

[5] 7 Statutes, p. 343.

[6] Ibid, p. 352.

[7] Hildreth's History of the United States (1840), Vol. II, p. 271.

and brought into use without the labor and service of negro and other slaves; and forasmuch as the said negroes and other slaves brought unto the people of this province are of barbarous, wild, savage natures and such as render them wholly unqualified to be governed by the laws, customs, and practices of this province, but that it is absolutely necessary that such other constitutions, laws, and orders should in this province be made and enacted for the good regulation and ordering of them as may distrain the disorders, rapine, and inhumanity to which they are naturally prone and inclined, and may also tend to the safety and security of the people of this province and their estates," it therefore enacts, etc. And then follows an analysis of the act in which the objectionable features are set forth. "South Carolina, it thus appears," continues the historian, "assumed at the beginning the same bad preeminence on the subject of slave legislation which she still maintains."

The fact is that this preamble, as well as many of the provisions of the act thus criticised, were taken verbatim from the Barbadian statute of 1688, and were not original declarations and measures entitling Carolina to a preeminence, either for good or evil, over other slaveholding communities. The act of 1712, as has appeared, was not "the first extant slave law" of the province, as the historian alleges; nor was it by any means the last. Had he turned but a page of the volume, from which he extracted the provisions of the law he so condemned, he would have found the following enactment of two years after, 1714, in the same direction as those of the two northern provinces to which he alludes:[1]

IX. And whereas the number of negroes do extremely increase in this province, and through the afflicting providence of God the white persons do not proportionably multiply, by reason whereof the safety of the said province is greatly endangered; for the prevention of which for the future:

*Be it further enacted* by the authority aforesaid that all negro slaves from twelve years old and upwards imported into this part of the province from any part of Africa shall pay such additional duties as is hereafter named; that is to say, that every merchant or other person whatsoever who shall six months after the ratification of this act import any negro slave as aforesaid shall for every such slave pay unto the public receiver for the time being (within thirty days after such importation) the sum of two pounds current money of this Province.

It has already been seen that provisions were made in 1716 to require each planter to have one white servant for every ten negro slaves, and that a bounty of £25 was offered for every white servant, and £5 more for such as were imported in two years. In the same year by another act a duty of £30 per head was laid upon all negroes imported from any of the

[1] 7 Statutes, S. C., p. 367.

colonies.[1] In 1719 a duty was exacted of £10 per head on all negroes imported from Africa directly and £30 on all imported from the plantations.[2] In 1722 the same duty was laid on negroes imported from Africa, £10, and that on negroes from the other colonies still further increased to £50. The reason given for this discrimination is that the negroes imported from the colonies were either transported thence by courts of justice or sent off by private persons for their ill behavior.[3]

The slave code was again thoroughly revised under Governor Nicholson's provisionary government in 1722. The preamble taken from the Barbadian act was still preserved and the principal features of it reenacted, following, indeed, its very phraseology in many instances.[4]

All negroes, mulattoes, mustizoes, or Indians that had theretofore been sold and were then held for slaves were declared to be slaves, excepting such as had been or thereafter should for any peculiar merit be declared free by the governor and council under any law of the province.

No master, mistress, or overseer was allowed to give their negroes or other slaves leave on Sundays, fast days, holy days, or any other time to go out of their plantations without a letter or ticket, unless such negro or slave wore a livery; and any person seeing a negro or slave out of his master's plantations without a ticket or in company with a white person was empowered to correct such servant by whipping, not exceeding twenty lashes. An overseer who found a strange negro on his master's plantation without leave, and did not apprehend and whip him, forfeited 20 shillings.

Justices of the peace had power at all times to search for guns, pistols, swords, and other "offensive weapons" in negro houses, and to take them, unless the negro or slave having them had a ticket or license in writing from his master allowing him to hunt, to be renewed once every month, or unless when in company with a white person hunting. No master or mistress should allow more than one negro on one plantation the privilege. If any slave so intrusted killed another man's cattle, sheep, or hogs, or did any damage with it, the master was liable in double the value.

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[1] 2 Statutes, S. C., p. 651.

[2] 3 Statutes, S. C., p. 57.

[3] Ibid., p. 195.

[4] 7 Statutes, S. C., p. 371.

Patrols had full power and authority to enter any plantation and break open negro houses or other places when negroes were suspected of keeping arms; to punish runaways or slaves found out of their masters' plantations without a ticket; to correct by moderate whipping any slave who should affront or abuse them in the execution of their office; and to apprehend and take up any slave suspected of stealing or other criminal offense, and to carry him to the next magistrate.

Upon complaint made to any justice of the peace of any heinous or grievous crime or capital offense, such as murder, burglary, robbery, willful burning of dwelling houses, barns, stables, kitchens, or stacks of rice or tar kilns, barrels of pitch or tar, or any other capital offense for which clergy is taken away by the laws of England and of the province, committed by any slave, the justice should issue his warrant for apprehending the offender; and if upon examination it probably appeared that the person was guilty, he should commit him to prison, or immediately proceed to try him according to the form specified. To do this he was to certify to the justice next to him the cause, and to require him "to associate himself to him" in the trial. The justices so associated were to issue their summons to three sufficient freeholders, acquainting them with the matter, and appointing a time and place when and where the same should be heard; upon which hearing the freeholders, being first sworn to judge uprightly according to the evidence, in case they found the negro or slave guilty, should give sentence of death, the kind of death to be left to their judgment. Of this court, two justices and one freeholder, or one justice and two freeholders, constituted a quorum, and their acquittal or conviction was final. For lesser offenses, such as stealing or killing neat cattle, sheep, hogs, shoats, or pigs, for the first offense such slave was branded with an R on the right cheek; for the second, with an R on the left cheek and whipped not exceeding forty lashes, and for the third offense he should suffer death. The master or mistress was required to satisfy the party from whom the stealing or killing was done, except when the negro was put to death.

For every offense not particularly named in the act for which a white man was allowed the benefit of clergy and was punished by burning in the hand, the slave was to be burned with the letter R on the forehead, and for a second offense should suffer death. For burglary, an offense for which the white man suffered death without the benefit of the clergy, for the first

offense the negro was not to be put to death, but branded on the right cheek and whipped not exceeding thirty-nine lashes; for the second offense, branded on the left cheek and likewise whipped, and to suffer death only for the third offense. For stealing fowls, robbing henroosts, or any other less offense a single justice might inflict punishment by whipping. In case of mutiny the court of justices and freeholders might inflict death or any other penalty.

The confession of any slave accused, or the testimony of any other slave that the justices and freeholders should believe, was to be held good in all crimes not capital. But no negro or other slave was to suffer the loss of life or limb but upon conviction on his own free and voluntary confession or "by the oath of Christian evidence, or at least by the plain and positive evidence of two negroes or slaves so circumstanced that there shall not be sufficient reason to doubt the truth thereof," except in the case of murder, in which the evidence of one slave, attended with circumstances of which the justices and freeholders on the court were made the judges, or "upon violent presumption" of the accused persons guilt, was sufficient.

If any white person, freeman or servant, tempted or persuaded a negro to leave his master's service with the design of carrying him out of the province, he forfeited to the master £25; and in case he did not pay, the next magistrate should order the offender to be publicly whipped, not exceeding forty lashes. If he succeeded in actually carrying the negro out of the province, it was declared felony without the benefit of clergy, and the offender was to suffer death as a felon. A slave running away with intent to go from the province to deprive his master of his services was to suffer death; but if several went off together, one (or two, at the most) should be executed, the rest to be punished corporeally as the justice should adjudge, and the owner of the negroes saved to contribute proportionately to the loss of those whose slaves were executed. In all cases in which negroes or slaves were executed, the justices and freeholders were to value them, and to assess the value on the lands and negroes within their respective jurisdictions, so that the loss should not fall only upon the owner.

If a negro or slave should strike a white person, for the first offense he was to be severely whipped and to have his right ear cut off, and for the second, the justices and freeholders might

inflict any punishment, according to their discretion, except death.

And because there was sometimes reason to suspect that slaves ran away for want of sufficient allowance of provisions, any two justices of the peace might inquire whether slaves throughout the several plantations were sufficiently provided with corn or other provisions, and were to inform the justices of the courts of the province of any cases in which the slaves were not sufficiently provided for, in which cases the owners were to be fined.

No master was liable to any penalty if his negro or other slave suffered in life or member under punishment by him or his order for running away, or other crimes or misdemeanors; but if any person should, out of cruelty or willfully, kill a negro or other slave of his own he was fined £50. If the person so offending was a servant, or one incapable of making satisfaction, he was to receive thirty-nine lashes on his bare back. A negro found stealing or robbing, and resisting or refusing to submit, might be killed.

Such were the main features of the slave code as revised and adopted in South Carolina under the Royal Government. However harsh they may appear to the reader of the present day, it must be remembered that the penal codes under which white men then lived in England and elsewhere were scarcely less so. Granting the subordination of slavery, the prohibition of slaves going beyond the limits of their master's plantations was no more than that applied to soldiers and sailors, whose liberties did not extend beyond the camp barrack or ship; so, too, in regard to the provision as to a slave striking a white man. "Is the soldier who fights the battles of his country and lifts his hand against his commanding officer," it was asked, "more criminal or punished with less severity than the audacious slave who strikes his master? Is the gallant sailor who upholds the nation's glory and protects it by his valor and prowess subject to a milder punishment if, in a moment of unguarded resentment, he should strike the officer whose orders he is bound to obey? No! an ignominious death awaits the rash offender, his former services are forgotten, and he is consigned to a premature grave for his temerity, while the slave lives to repeat his crime and exult in his audacity."[1]

[1] The History of Barbadoes (Poyer), p. 138.

The scheme of the court of justices and freeholders was taken also from the Barbadian act. And in regard to that statute it was claimed that the form of trial it provided was in all respects competent to the regular administration of justice, "and candid men," it was observed, "may probably think that a tribunal consisting of two magistrates and three jurymen may be as capable of deciding justly as the military and naval courts-martial which are allowed to decide upon the lives of freemen."[1] In this connection it may be remarked in passing that in the whole system of government brought over from Barbados, with its interwoven military organization and slave system, there is a strong flavor and element of martial law. Thus the chief executive officer of the court was not styled high sheriff, as Locke's constitutions proposed, but provost-marshal.

In considering the measure of severity of this code it must be borne in mind that the punishments inflicted upon white men for crime in England were at that time, and, indeed, for a century later, not less brutal. In high crimes, as in treasons of all kinds, superadded to the terror and disgrace of an ignominious death, the offender was drawn or dragged to the place of execution. In cases of high treason the law was that men should be disemboweled alive, beheaded, and quartered; women burned. For some comparatively minor offenses the punishment was mutilation or dismemberment, by cutting off the hand or ears, as in forgery under the statutes of Elizabeth; for others, a lasting stigma was fixed upon the offender by slitting his nostrils or branding in the hand or cheek.[2] Blackstone laments that, among the variety of actions which men are daily liable to commit, no less than 160 have been declared by act of Parliament without benefit of clergy, or, in other words, to be worthy of death.[3]

The most objectionable and really dreadful feature of the law, undoubtedly, was the power over life and death of the slave, which was virtually in the master's hands. But this was in a great measure neutralized and controlled by the master's interest. To kill or injure his slave, whether punished or exculpated by the law, was to impose upon himself a pecuniary

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[1] The History of Barbadoes (Poyer), p. 140.

[2] Blackstone, Vol. IV, p. 247 (Sharswood edition).

[3] Ibid., p. 19.

fine to the extent of the value of the slave. The effective motive of interest came in to the protection of the negro's life. It has been pointed out that in Barbados, under the same law, where the population consisted of 75,000 blacks and 15,000 whites, homicide among the whites, though of rare occurrence and punished in the same exemplary manner as at the Old Bailey, was of more frequent occurrence than the murder of a slave by a freeman. In a period of thirty-four years there had been no authentic accounts of more than sixteen negroes killed by white men, and of these only six came within the legal description of that species of homicide which even the English criminal judicature would punish with death. Lord Seaforth during his administration (1801) instituted a minute inquiry into offenses of this sort, and though he employed no ordinary degree of industry in pursuing the inquisition, three instances of extreme cruelty were all that he could ascertain to have been committed for several years.[1]

No such investigation was made in South Carolina, but Hewatt, the historian, who was pastor of the Scotch Presbyterian Church in Charleston from 1763 to 1776 and who was not blinded to the evils of slavery as they existed in his time, but was indeed bitterly opposed to the whole institution, writes that it must be acknowledged that the planters of South Carolina treat their slaves with as much and more tenderness than those of any British colony where slavery exists. The working of the same system produced like effects in Carolina as in Barbados The master's interest not only protected the life of the slave against violence at his own hands, but extended to his defense from violence at the hands of others. It brought the powerful influence of the master to the prosecution of the assailants of his slaves, as well as to the concealment of his crimes. So great, indeed, was this influence that in 1740 it was found necessary to provide a penalty for concealing an accused slave.[2]

In the act of 1712 there was this provision,[3] explicitly declaring and providing against the danger to which section cx of Locke's constitution, heretofore quoted, alluded, and was intended to guard against:

XXXIV. Since charity and the Christian religion which we profess

[1] History of Barbadoes (Poyer), pp. 134, 135.

[2] 7 Statutes, p. 103.

[3] Ibid., p. 364.

obliges us to wish well to the souls of all men, and that religion may not be made a pretence to alter any man's property and right, and that no person may neglect to baptize their negroes or slaves, or suffer them to be baptized for fear that thereby they should be manumitted and set free: *Be it therefore enacted* by the authority aforesaid, That it shall be, and is hereby, declared lawful for any negro or Indian slave, or any other slave or slaves whatsoever, to receive and profess the christian faith and be thereinto baptized; but that, notwithstanding such slave or slaves shall receive and profess the christian religion and be baptized, he or they shall not thereby be manumitted or set free, or his or their owner, master, or mistress lose his or their civil right, property, and authority over such slave or slaves, but that the said slave or slaves with respect to his servitude shall remain and continue in the same state and condition that he or they was in before the making of this act.

This provision was omitted from the act of 1722. The reason for its omission will be found in the opinion of Lord Chancellor Hardwicke in the case of *Pearne* v. *Lisle*.[1] "There was once," he said, "a doubt whether if they (negro slaves) were christened they would not become free by that act, and there were precautions taken in the colonies[2] to prevent their being baptized till the opinion of Lord Talbot and myself, then attorney-general and solicitor-general, was taken on that point. We were both of opinion that it did not at all alter their state." This doubt, which Locke had endeavored to provide against in his Constitutions, had prevailed to a great extent from New England to Carolina, and as it was interfering with the slave trade the merchants of London had secured the opinion of the two law officers of the Crown that it was groundless. This legal difficulty having been thus removed, Dr. Gibson, the bishop of London, in a pastoral letter of the 19th of May, 1727, addressed to the masters and mistresses of families in the English plantations abroad, exhorting them to encourage and promote the instruction of their negroes in the Christian faith, thus discussed the subject in its religious aspect:[3]

11. But it is further pleaded that the instruction of heathens in the Christian Faith is in order to their Baptism, and that not only the Time to be allowed for instructing them would be an Abatement from the Profits of their Labor, but also that the baptizing them when instructed would destroy both the property which the Masters have in them as Slaves bought with their Money and the Right of selling again at pleasure, and that the making of them Christians only makes them less diligent and more ungovernable. To which it may be very truly replied that Chris-

[1] Ambler's Report, p. 75.

[2] Similar acts were adopted in Maryland and Virginia.—Bancroft, Vol. II, (ed. 1883), p. 275.

[3] Dalcho's Church History, p. 108.

tianity and the embracing of the Gospel does not make the least Alteration in civil Property or in any of the Duties which belong to Civil Relations, but in all these Respects it continues Persons just in the same State it found them. The freedom which Christianity gives is a Freedom from the bondage of Sin and Satan and from the Dominion of Men's Lusts and Passions and inordinate Desires; but as to their *outward* Condition, whatever that was before, whether bond or free, their being baptized and becoming Christians makes no manner of Change in it. As St. Paul has expressly told us (I Corinthians, vii, 20), where he is speaking directly to this very point: "*Let every man abide in the same calling wherein he was called;*" and at the 24th verse: "*Let every* Man, *wherein he is called therein abide with God.*"

The anxieties of the London merchants having been thus allayed and the legal and religious doubts satisfied, the importation of negroes into the colonies was continued with renewed vigor. We have seen that in 1708 the number of whites and of negroes was almost exactly equal, viz, whites, 4,080; negroes, 4,100. In 1715, while the white population had increased but to 6,250, the negroes had reached 10,500.[1] In seven years, while the whites had increased but 53 per cent, the negroes had increased 156 per cent, three times as much. In A Description of South Carolina, published in 1761[2] in London, (but which is supposed to have been the basis of Governor Glen's answers to the queries of the lords commissioners for trade and plantations, made probably in 1749,[3] the number of white people in South Carolina, including men, women, and children, it is said, was about 14,000 in the year 1724, and the number of slaves there at that time, reckoning men, women, and children, was about 32,000, mostly negroes.[4]

In the last nine years, therefore, while the whites had little more than doubled, the negroes had trebled. In 1733 the colonization of Georgia commenced, and the separate government in North Carolina having just before been established, this province lost inhabitants on both sides. In a memorial in 1734, signed by the governor, Robert Johnson, the president of the council, and the speaker of the commons, transmitted to His Britannic Majesty, it was stated that the inhabitants of both

[1] Hildreth's History of the United States, Vol. II, p. 278.

[2] Carroll's Collections, p. 261.

[3] Documents Connected with South Carolina (Weston), p. 63.

[4] Drayton, in his View of South Carolina, p. 103, gives a table of population in which, in 1723, the whites are put at 14,000, but the negroes at only 18,000. The account given by Governor Glen shows that Drayton's figures in this instance are incorrect.

Georgia and South Carolina composed a militia of only 3,500 men, and the negroes at least 22,000, in the proportion of 3 to 1 for all white inhabitants of South Carolina.[1] This loss of population by the removal of so many to the neighboring provinces was soon made up, at least so far as the negroes were concerned, and the apprehensions of the people became aroused at the great disproportion in the relative number of the two races. In the Gazette of April 2, 1737, a communication appears under the signature of "Mercator," in which it was stated that in four years past there had been imported 10,447 negroes, and in the four years before only 5,153. To the running in debt for negroes, more than the planters had the means of paying for, the writer attributes the scarcity of money. He went on to say that if some method were not speedily taken to prevent the large importation of negroes it would not only increase the scarcity of money but also be of the most fatal consequences to the province.

Another writer in the Gazette of March 9, 1738, repeats the warning. He writes:

> I can not avoid observing that altho'h a few Negroes annually imported into the province might be of Advantage to most People, yet such large importation of 2,600 or 2,800 every year is not only a loss to many, but in the end may prove the Ruin of the Province, as it most certainly does that of many industrious Planters who unwarily engage in buying more than they have occasion or are able to pay for.

This writer states that until the year 1732 the common method of selling negroes in the province was for payment in rice, whereby sellers were enabled to make 10 per cent per annum profit by forbearance of requiring payment. The rice was valued at about 37s. 6d. per hundredweight, the casks going for nothing. The factors were in general under no other contract with their employers than to remit the rice when they received it. But now he complains that the case is altered, the sales being upon a new and quite a different footing. The factor here is bound to make good all debts and to remit two-thirds of the value in twelve months and the other one-third in two years after the day of sale. This the writer held that the planter could not do. He maintained that a good crop of rice, even at 60s. per hundredweight, was not sufficient to pay all the planter's debts, nor would a good crop the next year pay half the debts then due to the trading man in town.

[1] Drayton's View of South Carolina, p. 102; Hewatt, Vol. II, p. 31.

That the apprehensions of the writer as to the dangers of this influx of barbarous savages were not altogether groundless was demonstrated by the insurrection which broke out soon after. It was estimated that the number of negroes in the province at this time (1740) was 40,000[1]. This outbreak had undoubtedly been instigated by the Spaniards at St. Augustine. Liberty and protection had been proclaimed to them, and emissaries had been found secretly persuading them to fly from their masters to Florida. Many had made their escape to that settlement. Of these negroes the governor of Florida formed a regiment, appointed officers from among them, and allowed them the same pay and clothed them in the same uniform with the regular Spanish soldiers. Of all this the negroes in Carolina were kept informed, and when they ran away they constantly directed their course to that quarter.

At length, a number of negroes assembled at Stono, and began their movement by killing two young men in a warehouse, and plundering it of guns and ammunition. Thus provided with arms, they chose one of their number captain, put themselves under his command, and marched in the direction of Florida, with colors flying and drums beating. They entered the house of Mr. Godfrey, murdered him, his wife, and children, took all the arms, in the house, and, setting fire to it, proceeded toward Jacksonboro. In their march they plundered and burned every house, killed the white people, and compelled the negroes to join them.

Lieutenant Governor Bull happening to be on his way to Charleston, probably from Beaufort, and observing this body of armed negroes, quickly rode out of their way. He crossed over to Johns Island, and from thence came to Charleston with the first intelligence. Mr. Golightly, also seeing and avoiding them, went directly to the Presbyterian church at Wiltown, and gave the alarm. By a law of the province all persons were required to carry their arms to church, and as it was a Sunday Mr. Golightly found there a body of armed men, and proceeded with them directly from the church to engage the negroes, about eight miles distant. The women were left trembling with fear while the militia marched in quest of the negroes, who by this time had become formidable from their numbers. They

[1] Hewat History of South Carolina, Vol. 2, p. 71. Governor Glen, however, in 1749, estimates the number of negroes at 39,000.

had for fifteen miles spread desolation through all the plantations on their way. Having found rum in some houses, and drunk freely of it, they halted in an open field, and began to sing and dance. During these rejoicings the militia came up, and took positions to prevent escape; then advancing, and killing some of them, the remainder of the negroes dispersed and fled to the woods. Many ran back to the plantations to which they belonged, in the hope of escaping suspicion of having joined the rising, but the greater part were taken and tried. Such of them as had been compelled to join were pardoned: the leaders suffered death.[1] Twenty-one whites and 44 negroes lost their lives in this insurrection.

The slave code had been revised in 1735.[2] This insurrection led to another thorough revision in 1740,[3] but to the honor of the province be it said that, so far from this rising of the negroes adding to the severities of the law, it was made the occasion of ameliorating the condition of the slave. More stringent provisions were made against the assembling of slaves and provisions against insurrections, but in the main the amendments to the code were in the negro's favor.

A penalty of £5 currency was imposed upon any person who employed any slave in any work or labor (work of necessary occasions of the family only excepted) on the Lord's day, commonly called Sunday. The selling of strong liquor to slaves was prohibited. Slaves were to be provided with sufficient clothing, covering, and food; and in case any owner or person in charge of slaves neglected to make such provision, any neighboring justice, upon complaint, was required to inquire into the matter, and if the owner or person in charge failed to exculpate himself from the charge, the justice might make such orders for the relief of the slave as in his discretion he should think fit.

And because, it was said, by reason of the extent and distance of plantations in the province the inhabitants were far removed from each other, and many cruelties might be committed on slaves, it was provided that if any slave should suffer in life or limb, or be beaten or abused contrary to the direction of this act, when no white person was present, or, being present, refused to give evidence, the owner or person in

[1] Ramsay, History of South Carolina, Vol. 1, p. 109.

[2] 7 Statutes, S. C., p. 385.

[3] Ibid., p. 397.

charge of such slave should be deemed to be guilty of the offense, unless he made the contrary appear by good and sufficient evidence, or by his own oath clear and exculpate himself. This oath was to prevail if clear proof of the offense was not made by at least two witnesses. In case of cruelty to a slave, in the absence of white witnesses the burden of proof of innocence was thrown upon the party charged; and while his own oath might exculpate him unless two witnesses appeared against him, it was something at least that the owner was called upon to show his innocence. By this act, also, the apparel of the slave was regulated, as were also the hours of labor. Owners were prohibited from working slaves more than fifteen hours in twenty-four from the 25th of March to the 25th of September or more than fourteen hours in twenty-four from the 25th of September to the 25th of March.

The slave code, as revised in 1740, remained substantially the law in regard to slavery during the continuance of the institution in South Carolina for one hundred and twenty years after, and its provisions in regard to the killing of negroes were repeatedly enforced. It was, however, so amended in 1821 as to provide that if anyone should murder a slave he should suffer death without the benefit of clergy; and if anyone should kill a slave in sudden heat and passion, he should be fined not exceeding $500 and be imprisoned not exceeding six months. It happened that immediately before the passage of the act—very probably the cause of its passage—a negro who had run away was killed by his master, and in his defense the plea was made that he could not be tried under the new act, and that the new act repealed the old. But the court of appeals held that while the new act could not apply to his case as *ex post facto*, he could not thus escape, and punished him under the act of 1740.[1] As late as 1853 two white men we convicted and executed under the provisions of the acts of 1740 and 1821 for killing a negro whose identity was not established, but who, under the act of 1740, was presumed to have been a slave.

In this case the judge who both tried the case and pronounced the opinion of the highest court upon appeal stated that no eye-witness had testified to the killing, and the mutilated remains when discovered offered no means of recognition.[2]

[1] State *v.* Taylor, 2 McCord, p. 483. State *v.* Guy Raines, 3 McCord's Reports, p. 542.

[2] Richardson's Law Reports, Vol. VII, p. 327.

The men accused were nevertheless convicted and executed, the governor at the time ordering out a strong military force to escort the sheriff with the condemned men from Charleston, where they had been imprisoned for safe-keeping, to Walterboro. the place of execution.

The negro insurrection of 1740 had, however, naturally increased the apprehensions of danger from this source, and the disastrous fire of the same year had added the fear of incendiarism to others. In this condition of the public mind a dwelling house of Mr. Snowden was set on fire by a negro man. Upon the evidence of his accomplice and upon his own confession he was publicly burned to death on the 14th of August, 1741.[1] But it must be observed that this awful punishment was not inflicted under any provision of the slave code, but under the ancient law of England. imposed as a kind of *lex talionis* under the statute of Edward I.[2] Chief Justice Trott, in a charge to the grand jury in 1708, in explaining the different offenses and their punishments, had told them that "burners of houses. by the civil law. were to be burned;" and so they were anciently by the common law of England, as appears by Bracton. In 1703 a white woman was convicted of poisoning her husband, with two men as her accomplices, and Trott sentenced the men to be hanged and the woman to be burned.[3] We have no record, however, of the execution of the sentence.[4]

Having thoroughly revised the slave code, the assembly made another attempt to check the further importation of negroes. An act was passed[5] reciting that the importation of negroes from the coast of Africa, as they were generally of a barbarous and savage disposition, was dangerous to the peace and safety of the province, and that to prevent these fatal mischiefs for the future it was necessary that a method should be

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[1] South Carolina Gazette, August 15, 1741.

[2] Blackstone, Vol. IV, 222.

[3] MSS. Charges of Chief Justice Trott, Charleston Library.

[4] It was at least a curious coincidence, if indeed it was not really the suggestion of the burning in Charlestown, that in the South Carolina Gazette of July 30, 1741, there is a letter giving an account of incendiary fires in New Jersery, and an insurrection of negroes in New York, attributed like that in South Carolina, to Spanish instigation, in consequence of which two negro men were burned at the stake in New York at one time, and seven at another.

[5] 3 Statutes, S. C., p. 556.

established by which a proportional number of white inhabitants should be introduced. By this act a tax was imposed on the purchase of negroes according to their height: a tax of £10 was laid, to be paid by every person who in fifteen months after its passage first purchased any negro of 4 feet 2 inches high that had not been six months before in the province, and £5 for every such negro under that height and above 3 feet 2 inches, and all under that height, £2 10s.; and after fifteen months from the term of three years next ensuing, £100 for every negro over 4 feet 2 inches, and £50 for every one under that height and above 3 feet 2 inches; and for all under, £25. The sums raised from this tax were to be appropriated for defraying the charge of transportation of poor protestants from Charlestown to the place of settlement and for purchasing tools necessary for planting and settling, with provisions for one year, each poor Protestant (not being above 50 years of age) who would come and settle in the province, and for purchasing one cow and calf over and above such provisions for every five persons who should actually become settled in any of the townships laid out, or in any other of the frontier places in the province in which such poor Protestant might be directed by the governor to settle. Besides the tax upon the first purchaser, the slaves themselves imported were taxed £50 additional. This measure was intended to act as a prohibition, and it did so.

To the honor of the Society for the Propagation of the Gospel, writes Hewatt, it must be acknowledged that they had made some attempts for the conversion of these heathen. They had no less than twelve missionaries in Carolina, who had instructions to give all the assistance in their power to this laudable purpose, and to each of them they allowed £50 in the year over and above their provincial salaries. But it was well known, he adds, that the fruit of their labors had been very small and inconsiderable. Such feeble exertions were noways equal to the extent of the work required, nor to the greatness of the end proposed. Whether their small success ought to be ascribed to the rude and intractable dispositions of the negroes, to the obstructions thrown in their way by the owners, or to the negligence and indolence of the missionaries themselves he does not undertake to determine. Perhaps, he ventures to assert, it was more or less owing to all these different causes. One thing,

he observes, was very certain, that the negroes of the country, a few only excepted, were, when he wrote, as great strangers to Christianity and as much under the influence of pagan darkness, idolatry, and superstition as they were on their first arrival from Africa.

The Rev. Samuel Thomas was the first missionary sent out by the society. He ministered from 1702 to 1706 at Goose Creek, which he described as one of the largest and most populous country towns, and settled by English families well affected to the church. He reported to the society that though his communicants were but five, they soon increased to thirty-two, and that he had taken much pains also in instructing negroes, and had taught twenty of them to read.[1] He was succeeded by the Rev. Dr. Le Jean, who wrote that the parents and masters were indued with much good will to have their children and servants taught the Christian religion. He instructed and baptized many negroes and Indian slaves.[2] The Rev. Mr. Taylor, missionary in St. Andrews' parish, wrote to the society (1713) that Mr. Haig and Mr. Edwards had taken extraordinary pains to instruct a considerable number of negroes in the principles of the Christian religion and to reclaim and reform them. The wonderful success they met with in about half a year's time encouraged him to examine these negroes about their knowledge of Christianity.

They declared to him their faith in the chief articles of religion, which they sufficiently explained; they rehearsed by heart very distinctly the Creed, the Ten Commandments, and the Lord's Prayer. Fourteen of them gave him so great satisfaction and were so desirous to be baptized that he thought it his duty to do it on the last Lord's day. Mr. Taylor was nevertheless very severe upon his parishioners generally. "If the masters were but Christians themselves," he wrote, "and would but concur with the ministers, we should then have good hopes of the conversion and salvation of at least some of their negro and Indian slaves. But too many of them rather oppose than concur with us, and are angry with us, I may say with me, for endeavoring as much as I do the conversion of their slaves."[3] Humphreys, however, mentions that there

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[1] Humphreys' Historical Account of the Society for the Propagation of the Gospel, p. 82.

[2] Ibid., pp. 83, 84.

[3] Digest of S. P. G. Records, 1701–1892. 15, 16.

had been "contentious disputes at first, and afterwards an unhappy distaste between him and his parishioners," and observes that his successor, Mr. Guy, "made amends by his prudence and courteous demeanor for the disobliging conduct of his predecessor."[1] Mr. Taylor's own conduct may have been the cause of some of the opposition to his ministrations of which he complained. The Rev. Mr. Varnod reported to the society that he had, a year after his arrival (1723), 50 communicants, among whom were 17 negroes, and baptized several grown persons, besides children and negroes belonging to Mr. Alex. Skeene, and in 1733 that out of 31 communicants of his parish 19 were negroes.[2]

Mr. John Morris, of St. Bartholomew's; Lady Moore, Capt. David Davis, Mrs. Sarah Baker, and several others, of Goose Creek; Landgrave Joseph Morton and his wife, of St. Paul's; Mr. and Mrs. Skeene, Mrs. Haig, and Mrs. Edwards and the governor (Robert Gibbes) are recorded as those who were most zealous, in 1711, in encouraging the instruction of their slaves.[3]

Neither the church nor the Society for the Propagation of the Gospel entertained any scruples as to the institution of slavery. The church act of 1704 anticipated that the society would give negro slaves as part of the endowment of the parishes, and it provided that the negroes so given were to be a part of the glebe.[4] The society itself accepted a devise by General Codrington, in 1710, of two valuable plantations in Barbados upon the condition that these plantations should be kept entire with at least 300 negroes upon them, the produce of which was to be allotted to maintain a convenient number of professors and scholars, under vows of chastity and obedience, who were required to study and practice physic and surgery as well as divinity, that they might endear themselves to the people and have the opportunity of doing good to men's souls while they were taking care of their bodies.

[1] Humphreys' Historical Account of the Society for the Propagation of the Gospel, p. 112; Dalcho's Church History, p. 387.

[2] Ibid., p. 117; Dalcho's Church History, pp. 346, 347.

[3] Digest of S. P. G. Records, 701-1892, p. 115.

[4] 2 Statutes, S. C., p. 239.

The venerable society, says Bryan Edwards,[1] found themselves under the disagreeable necessity not only of supporting the system of slavery which was bequeathed to them with the land, but were induced also, from the purest and best of motives, to purchase occasionally a certain number of negroes "to keep up the stock." But the Society went a step further in Carolina and a considerable step further. It not only accepted, as we shall see directly, a devise of negroes to work upon a plantation, and purchased others to keep up the stock, to support its missionaries, but it fell upon the singular plan of purchasing negroes to educate and devote as slaves to the purpose of educating other negro slaves.

We find an advertisement by the Rev. Alexander Garden, the Commissary of the Bishop of London, in the South Carolina Gazette of March 11, 1743, stating that the Society for the Propagation of the Gospel, having long had much at heart the propagation of the gospel among the negroes and Indian slaves in His Majesty's colonies in America, had resolved on the following method of pursuing that end, viz, by purchasing some country-born young negroes, causing them to be instructed to read the Bible and in the chief precepts of the Christian religion, and thenceforth employing them (under the direction of proper trustees) as schoolmasters for the same instruction of all negro and Indian children as might be born in the colonies.

The advertisement goes on to state that in pursuance of this plan the society had purchased, about fifteen months before, two such negroes for this service, and appropriated one of them for Charlestown, who would be sufficiently qualified in a few months, and to whom all the negro and Indian children of the parish might be sent for education without any charge to the masters and owners; and the Commissary concludes with an appeal for a voluntary contribution of £400 currency to build a schoolhouse for the purpose, which he consents should be put up in a corner of the glebe land, near the parsonage.

This appeal was answered, and in the Gazette of April 2, 1744, Dr. Garden publishes an account of receipts and expenditures, in which it appears that he had received contributions to the amount of £226. Among the contributors were Hon. Charles Pinckney, Joseph Wragg, Robert Pringle, Jacob Motte, Col. Otheneil Beale, Benjamin Smith, and Sarah Trott.

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[1] Edwards, History of West Indies, Index, Vol. II, p. 35.

The two negro boys so purchased received the baptismal names of Henry and Andrew. The school was established and the experiment tried in the hope that the negroes would receive instructions from teachers of their own race with more facility and willingness than from white teachers. The school was continued for twenty-two years, first under the supervision of Commissary Garden as rector of St. Philip's, then of his successor, the Rev. Mr. Clarke, and then of the Rev. Robert Smith, afterwards the first bishop of South Carolina.

The Rev. Mr. Commissary Garden wrote to the Society October 10, 1743, that the negro school in Charlestown was likely to succeed and consisted of 30 children. He further informed them that he intended to employ both the negro youths in teaching in this school until their services should be wanted for similar institutions in the country parishes. He was of opinion that thirty or forty children would annually be discharged, capable of reading the scriptures and sufficiently instructed in the chief principles of the Christian religion. In consequence of this favorable information the Society sent to the school a large quantity of Bibles, Testaments, Common Prayer books, and spelling books.

In 1744 upward of 60 children were instructed in it daily, 18 of whom read in the Testament, 20 in the Psalter, and the rest in the spelling book.[1] In 1746 there were 55 children under tuition and 15 adults were instructed in the evening.[2] In 1755 there were 70 children in the school, and books were given for their use.[3] In 1757 Mr. Clarke informed the society that the negro school in Charleston was flourishing and full of children, and from the success of the institution he lamented "the want of civil establishments" in the province for the Christian instruction of 50,000 negroes.[4] Reverend Mr. Smith examined the proficiency of the children twice a week, and the school was deemed in a flourishing condition. But Andrew, one of the teachers, died, and the other, Harry, "turned out profligate;" and as the society had not invested to any greater extent in slaves "to keep up the stock" for the purpose of education, they had no other black or colored persons to take charge of the school, and it was discontinued.[5] It is not so mentioned, but the education of these negro children must have been restricted to reading, as they were prohibited by law from being taught to write.

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[1] Dalcho's Church History, pp. 156, 157. [2] Ibid., p. 158.
[3] Ibid., p. 174. [4] Ibid., p. 178. [5] Ibid., p. 193.

But the purchase of negro slaves for devotion to pious and religious purposes was not confined to the Society for the Propagation of the Gospel. The Rev. George Whitefield and Mr. James Habersham, who together had established the Bethesda Orphan House in Georgia, were mainly instrumental in bringing the trustees of the colony to relax their prohibition against the introduction of slavery in that province. Mr. Whitefield, as early as 1741, gave the trustees a most practical lesson in his views by planting a portion of land, which he called "Providence," with negro labor, bought and paid for as his own slaves. with the design of thereby supporting his orphan house at Bethesda. He writes, under date of March 15, 1747:

> I last week bought at a very cheap rate a plantation of 640 acres of excellent land, with a good house, farm, and outhouses and 60 acres of ground cleared, fenced, and fit for rice and everything that will be necessary for provisions. One negro has been given me: some more I propose to purchase this week.

And again, in June of the same year, he says:

> God is delivering me out of my embarrassments by degrees. With the collections made at Charlestown I have purchased a plantation and some slaves, which I intend to devote to the use of Bethesda.

On the 6th of December, 1748, he complains to the trustees that very little proficiency had been made in the cultivation of his tract, and that entirely owing to the necessity he was under of making use of white hands. He writes:

> Had a negro been allowed I should have had a sufficiency to support a great many orphans without expending about half the sum which has been laid out. An unwillingness to let so good a design drop, and having a rational conviction that it must necessarily if some other method was not fixed upon to prevent it—those two considerations, honored gentlemen, prevailed upon me about two years ago, through the bounty of my friends, to purchase a plantation in South Carolina, where negroes are allowed. Blessed be God, the plantation has succeeded, and though at present I have only eight working hands, yet in all probability there will be more raised in one year, and with a quarter the expense, than has been produced at Bethesda for several years last past. This confirms me in the opinion I have entertained for a long time *that Georgia never can or will be a flourishing province without negroes are allowed.*[1]

Thus it was that the Church of England and the evangelist Whitefield not only countenanced the system of slavery, but

[1] History of Georgia (Stevens), pp. 308–310.

actually participated in its maintenance. We have already seen that the Bishop of London, in his zeal for the conversion of the negroes, assured their masters of the rightfulness of the institution, and enjoined upon the negroes to submit to its bondage as ordained of God, explaining that baptism was no means of freedom in this world, but only of salvation in the next. All this, of course, tended to strengthen its hold upon the people, whose apprehensions in regard to the increasing number of negroes were inducing them to check its growth. But even in this effort they were thwarted by the action of the royal Government.

Governor Glen wrote to the lords of trade in 1749 that though the law passed in the province (Statutes of 1740) laying a heavy duty on negroes imported, which amounted to a prohibition, had expired for some time, and though the importation had since been prevented by the war then raging in Europe, he did not think that their numbers had diminished, but on the contrary, though it was then upward of nine years since the law had been passed.[1] The act of 1740 having expired in 1751, and the peace of Aix la Chappelle having been proclaimed and the slave trade again opened, a new duty of £10 was laid on each imported slave of the height of 4 feet 2 inches, and proportionately for those under that height. This act was by its terms to continue in force for the term of ten years.[2]

The province of Virginia had pursued the same policy and had endeavored to suppress the importation of negroes. The merchants of London took alarm at this conduct of the southern colonies. One, signing himself "A British Merchant," in 1745 published a paper, which he entitled "The African Slave Trade, the Great Pillar and Support of the British Plantations in America." New England rum, manufactured at Newport, was profitably exchanged on the coast of Africa for negroes to be sold in the southern colonies, and vessels sailed on this business from Boston and New York; but the trade was principally carried on by English merchants of Bristol and Liverpool. Charters for the exclusive privilege of carrying on the slave trade had been granted to merchants from London in 1618 under the reign of James I; in 1631 under that of Charles

[1] Documents connected with South Carolina (Weston), p. 92.

[2] 3 Statutes, S. C., p. 739.

I; in 1662 under Charles II to a company of which the Duke of York, the King's brother, was at the head; and in 1672 to another in which not only the King's brother, but the King himself was a stockholder.

The revolution of 1688 abolished all exclusive charters, and in 1698 the trade to the coast of Africa was, by act of Parliament, made free to all persons. This act operating hardly, as it was regarded, upon the "Royal African Company," Parliament voted them annually, from 1739 to 1746, £10,000. But while the monopoly of the company was destroyed, the monopoly of British subjects in furnishing slaves to the British colonies was strictly secured. Ten judges, among whom were Holt and Pollexfen, declared that "negroes are merchandise," and hence within the navigation acts."[1]

It was not to be supposed that the lords of trade and plantations would be deaf to the remonstrances of the merchants of London against the suppression of so valuable a trade; and so we find that when Governor Littleton came out in 1756 he brought with him instructions to put a stop to this colonial interference with the legitimate business of English merchants and skippers. Their lordships, in the name of the King, directed:[2]

> Whereas acts have been passed in some of our plantations of America for laying duties on the importation and exportation of negroes, to the great discouragement of the merchants trading thither from the coast of Africa; and whereas acts have likewise been passed for laying duties on felons imported, in direct opposition to the act of Parliament passed in the tenth year of his late Majesty our royal grandfather's reign for the further preventing robbery and burglary and other felonies and the more effectual transportation of felons, etc.: It is our said pleasure that you do not give your assent to or pass any law imposing duties on negroes imported into our said Province of South Carolina payable by the importers or upon any slaves exported that have not been sold in our said province and continued there for the space of twelve months. It is our further wish that you do not give assent to or pass any act whatsoever for imposing duties on the importation of any felons from this Kingdom into South Carolina.

These instructions were repeated to Governor Boone when he was commissioned in 1761.[3] The general-duty act of the province, as it was called, of 1751, by which duties were laid on all imported negroes for ten years, expired just before Gov-

[1] Cobb on Slavery, p. cxliv. Bancroft's History of the United States, Vol. II, p. 279.

[2] Public Records, Columbia, S. C., Vol. XXVI, p. 291.

[3] Ibid., Vol. XXIX, p. 147.

ernor Boone's arrival. No renewal of such duties was made during his administration, but immediately upon his leaving the province, in 1764, an act was passed reciting:

Whereas an importation of negroes equal in number to what has been imported of late years may prove of the most dangerous consequence in many respects to this province, and the best way to obviate such danger will be by imposing such additional duty upon them as may totally prevent the evils, we therefore humbly pray his most sacred Majesty that it may be enacted, etc., that an additional duty of £100 current money might be imposed on every person first purchasing any negro or other slave imported into the province except those brought from any other colony in America by persons actually to reside in the province.[1]

The act was not to go into effect until the 1st of January, 1766, and was to continue in force for a term of three years. It was assented to by Lieutenant-Governor Bull, as by its terms it was not to be in operation before the Government in England could pass upon it. It was allowed by the Board of Trade, and went into effect, but was not renewed. The result was that upon its expiration there was another influx of slaves.

During the discussion of the nonimportation agreement the Gazette of July 6, 1769, stated that upon an examination of the imports from the year 1756 to 1766 it appeared that 23,743 negroes were brought into the province during that period, the medium of which was 2,374 a year; but if the last of those years were taken off, when 6,701 were poured into the province, in anticipation of the high duty which was to take place the year following, and which did then put an entire stop to the importation till January 1769, the medium was 1,894. "From the 1st of January last," continued the Gazette, "to the 1st of July, no less than 4,233 had been imported, and many more were expected before the close of the year." The Gazette observes, in italicized lines:

*This scarcely needs comment; every man's own mind must suggest the consequences of such enormous importation, especially at this time.*

This suggestion was acted upon, and the nonimportation agreement then in force was, on the 22d of July, enlarged so as to read:

IV. That from and after the 1st day of January, 1770, we will not import, buy, or sell any negroes that shall be brought in the province from Africa; nor after the 1st day of October next any negroes that shall be imported from the West Indies or any other place excepting Africa aforesaid. And

[1] 4 Statutes, S. C., pp. 187, 188.

if any such negroes or goods shall be sent to us contrary to the agreement in the subscription such goods shall be reshipped or stored and such negroes reshipped from the province, and not by any means offered for sale therein.[1]

There was a double motive, doubtless, in this resolve. The inhabitants, alarmed at the increasing number of negroes, were ready to avail themselves of the opportunity of putting a stop to their importation, which had been forbidden by the Government in England. But while this motive was no doubt efficacious in the adoption of the resolution, the fact that this was a means of touching the pocket nerve of the British merchant in its most sensitive point was probably a still greater inducement to its passage.

This the Board of Trade was likely to appreciate, for on the 6th of December, 1669, Lieutenant-Governor Bull had written to the Earl of Hillsborough, His Majesty's principal secretary of state for the colonies, that since the 1st of January, at which time the late prohibition had expired, 5,438 negroes had been imported, which, being mostly adults for immediate use, sold upon an average of nearly £40 each.[2]

The Gazette, which carried on its war against the importation of negroes after the nonimportation agreement had fallen through, on May 31 states that the greatest number imported before in one year was 7,184 in 1765, which it says is 4,457 less than have arrived the present year. In 1773 therefore the importation had reached the figure 11,641. The next greatest numbers imported in a year, it says, were 4,865 in 1772, 4,612 in 1769, and 3,740 in 1760. The whole number of slaves imported from the 1st of January, 1753, to the 1st of January, 1773, it states to have been 43,695.

It was because of the climatic differences between New York and South Carolina, observes Bancroft, that one ceased to be, while the other remained a slave State. It turned out ultimately to have been the misfortune of South Carolina not only that her climate suited the negro race, but that rice, an article of food for foreign commerce, as well as home consumption, was found capable of production by negro labor at great profit—and that too in portions of her territory in which the white man could not continuously live. This at once made Charlestown an emporium of the trade, which the English merchants

[1] South Carolina Gazette. See also South Carolina American and General Gazette of same date.

[2] Public Records, Columbia, S. C.

were so vigorously prosecuting under the protection of the British Government.

The celebrated "Somerset" or "The Negro Case," as it was called, was decided by Lord Mansfield and the court of King's bench with great reluctance in 1771.[1] His lordship endeavored to avoid a decision, holding the case over in the hope that some arrangement might be come to by which he might be relieved of the responsibility. "If the parties will have judgment," said his lordship at last, "*fiat justitia ruat cœlum*, let justice be done whatever be the consequences. Fifty pounds a head may not be a high price: then a loss follows of above £700,000," etc. It is probable, however, that meanwhile many of the slaves had been spirited out of the kingdom pending the decision. This decision put an end to the holding of slaves in bondage in England, but it did nothing more. It did not in the least relieve the mother country of the responsibility of slavery in the colonies. It was admitted in that case that by the laws of the British-American colonies slavery existed, and was recognized by the laws of England as so existing. "The question before the court," said Lord Mansfield, "was whether any dominion, authority, or coercion can be exercised in this country [England] on a slave according to the American laws." The difficulty of adopting the relation without adopting it in all its consequences, his lordship admitted, was extreme. But, in delivering the opinion of the court, slavery, he declared, was of such a nature—was so odious—that nothing could be suffered to support it but positive law. Whatever inconvenience, therefore, might follow from the decision, he could not say that slavery was allowed or approved by the law of England, and therefore the black must be discharged.

This case was heard and decided by the King's bench alone, and was not argued before all the judges, as was usual in habeas corpus cases, nor was it taken to the House of Lords, the supreme court of judicature of the Kingdom. It was, however, acquiesced in by the nation, and has since been regarded as the law of the land. It was, nevertheless, a most extraordinary decision, in view of the well-known historical facts and previous decisions of the courts of England.

The bald question was whether slavery could be recognized to exist under the same government in the colonies and not in

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[1] "The Negro Case," State Trials, Vol. XX, pp. 1-82.

England itself. It was the fundamental law of all the colonies that their laws should not be repugnant nor contrary to the laws of England. This was expressly prescribed in all their charters. If, therefore, slavery was repugnant or contrary to the laws of England, it could not exist in the colonies. So plain is this proposition that Hildreth, the historian, has adduced the result that slavery was never legal in the colonies themselves.[1] This is logical; but to such logical conclusion the courts of England refused to go. This was the difficulty to which Lord Mansfield alluded and declared extreme in the way of adopting the course he did without adopting all of its consequences. There can be little doubt that, had the alternative been pressed upon the court of King's bench—that its decision must revoke slavery in the colonies as well as in England—Somerset would never have been declared free.

The merchants and manufacturers in England clamored for protection to the slave trade, which opened to them the African market. Parliament, by repeated declarations and statutes, had declared the trade lawful, beneficial, and advantageous to the Kingdom and the colonies.[2] The entire number of slaves exported from Africa prior to 1776 was, at the lowest estimation, 3,250,000. More than one-half of these were carried in English ships, and the profits of the traffic to English merchants is reported to have been at least $400,000,000. In the year 1771, the very year in which the Somerset decision was made, there sailed from England alone 192 ships, provided for the exportation of 47,146 slaves.[3] No government could have stood which declared against this trade.

We have seen that two of the greatest lawyers of England, Talbot and Yorke, both afterwards lord chancellors, the latter celebrated as Lord Hardwicke, had given their opinions when attorney and solicitor general, respectively, maintaining the legality of the institution of slavery and protecting it against the apprehended effect of Christian baptism. Chief Justice Holt, it is true, is reported to have held in 1702 "that as soon as a negro comes into England he becomes free."[4] But, as

[1] Hildreth's History of the United States, Vol. II, p. 275.

[2] Bancroft (edition 1883), Vol. II, p. 278.

[3] Cobb on Slavery, p. cliv, citing 3d Bancroft, pp. 411–412; Edwards' West Indies, Vol. II, p. 868; Copley's History of Slavery, p. 114.

[4] Smith *v.* Brown and Cooper, 2 Lord Raymond's Reports, p. 1274; 2 Salkeld, p. 666.

Lord Chancellor Hardwicke pointed out in *Pearne* v. *Lislie*, before cited, that was a mere obiter dictum, if the report of the case was correct, for the question before the court was one merely of pleading. The assertion, if made by Holt, was against the fact, if not against the law, for at that time large numbers of negro slaves were held in subjection in the British Isles without question as to the master's title. At one time the negro page was indispensable to the English lady on her daily walks through the city thoroughfares; and for fear "the pure air of Britain" might engender some ideas of liberty, the collar known to the Roman slave was fastened around his neck, with the name and residence of his mistress neatly engraved thereon.[1] At the time of the decision of the "Somerset case," 1771, it was estimated that there were 14,000 or 15,000 negro slaves held in England, and it was to allow their masters an opportunity of getting these out of his jurisdiction that Lord Mansfield withheld his decision.[2]

The case of *Smith* v. *Brown and Cooper*, in which Holt is reported to have made the famous declaration, is reported in the law books, upon reference to which it appears that the question argued before the court was one of special pleading, namely, whether a declaration in *indebitatus assumpsit* would lie for a negro sold. And this is what was actually decided:

"Holt, C. J. You should have averred in the declaration that the sale was in Virginia, and by the laws of that country negroes are salable, for the laws of England do not extend to Virginia. Being a conquered country, and their law is what the King pleases, and we can not take notice of it but as set forth;" therefore he directed that plaintiff should amend, and the declaration should be made that the defendant was indebted to the plaintiff for a negro sold here at London, but that the said negro at the time of sale was in Virginia, and that negroes by the laws of and statutes of Virginia are salable as chattels. Then the attorney-general coming in, said they were inheritances, and transferable by deed, and not without; And—the Reporter adds—nothing was done.

In 1704 there was another case reported in the same books (*Smith* v. *Gould*) in which Chief Justice Holt is again reported to have said that there was no such thing as a slave by the law of England; that men may be owners, and can not, therefore, be the subject of property. But the only point decided was in

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[1] Cobb on Slavery, p. cxlvi, citing London Quarterly Review, 1855, Article, "Advertising;" also Granville Sharp's Just Limitation of Slavery, p. 31.

[2] "The Negro Case," State Trials, Vol. XX, p. 79.

direct contradiction of that dictum, for he held that while the action of "trover lies not for a negro, in trespass *quare captivum suum cepit*, plaintiffs may give in evidence that the party was his negro and he bought him."

Out of decisions upon these subtle distinctions in the old metaphysical technical pleading of the common law has been evolved the celebrated saying that the air of England was too pure to be breathed by a slave. This is all the more curious, too, when it is recalled that Chief Justice Holt was one of the ten judges who declared that "negroes are merchandise and within the navigation acts."[1]

But Lord Chancellor Hardwicke, who, as Attorney-General Yorke, had given the opinion in 1727 that Christian baptism did not release a negro from bondage, in 1749 repudiated not only Chief Justice Holt's obiter dictum, but his actual decision as well.

"I have no doubt," he said in the case of *Pearne* v. *Lisle*, before quoted, "but trover will lie, for a negro slave is as much property as any other thing. The case in Salk., p. 666, was determined on the want of a proper description. It was trover *pro uno Æthiope vocat negro* without saying slave, and the being negro did not necessarily imply slave. *The reason said at the bar to have been given by Lord Chief Justice Holt in that case as the cause of his doubt*, viz, *that the moment a slave sets foot in England he becomes free, has no weight with it, nor can any reason be found why they should not be equally so when they set foot in Jamaica or any other English plantation. All our colonies are subject to the laws of England, although, as to some purposes, they have laws of their own.*"

Until the decision in the Somerset case slavery was thus recognized to exist by every branch of the Government of England, as well in England itself as in the colonies. It was so recognized by the King and his ministers, by Parliament, and by the courts. In that decision Lord Mansfield and his court of King's bench undertook to do what Lord Hardwicke had declared could not be done—to declare one law for England and another for the colonies.

The Government of England, with the sanction of the church, was thus forcing upon Carolina an institution which, with pharasaic zeal, it was declaring itself too righteous to tolerate at home—an institution which from its very nature must incorporate itself with the political and social system of the country, and become so interwoven into its structure as to be eradicated only when in the fullness of time its continuance must end by revolution, war, and desolation.

[1] Bancroft, Vol. III, p. 414; Cobb on Slavery, p. cxliv.