

changes in the climate; and have, no doubt, been attended by some ameliorations in the salubrity of the country which, it is more than probable, will continue to go on until our population becomes as dense as that of the best portions of Europe. (b)

The African race, in our country, are, in many respects, materially different from the European. The negro constitution has in it something peculiarly calculated to resist that malaria which is so deadly to the whites. A negro, it is well known, will enjoy good health during some seasons and in many situations in which the white man can scarcely exist. In all that concerns the probable or average duration of human life, as being in any way involved in a judicial determination upon a right of property, it would seem to be wholly unnecessary to extend our inquiries beyond the class of free whites; because free negroes have little property, and negroes held as slaves can have none. But although slaves are incompetent themselves to hold property; yet considered as property they have always been valued, assessed, and taxed in proportion to their ability of body, age, and sex; (c) and there is no legal reason why an estate may not be held during the life of a negro slave. (d) It is by no means uncommon for negroes to have legacies given to them for their support by way of an annuity for life, or to have small pieces of land given to them for life. Where slaves are given by a parent to his child as an advancement, if, after the death of the parent, the child brings such advancement into hotchpot, in order to be let in as a distributee, the advancement, here as in England, must be valued as of the day when it was made; and, consequently, slaves so given, must be valued as of that day, exclusive of their subsequent increase. (e) And so too in all other cases where slaves are to be valued it must be with reference to their peculiar expectation of life as well as to their bodily ability, skill and other qualities. (f)

It is certain, that life interests in almost every form, such as estates for life in lands, in personal property, in annuities, &c. were fully recognized by the law of England from a very remote period; yet the doctrine of chances, in relation to the expectation

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(b) Darby's View U. S. 421, 427; Hume's Essays: Of the Populousness of Ancient Nations; Taylor's Arator, Number 51, Draining.—(c) October, 1777, ch. 14, s. 4; October, 1778, ch. 7, s. 11.—(d) Biscoe v. Biscoe, 6 G. & J. 239; Hall v. Mullin, 5 H. & J. 190; Cunningham v. Cunningham, Cas. Confr. North Carol. 353.—(e) King v. Worsely, 2 Hayw. 366; Warfield v. Warfield, 5 H. & J. 459.—(f) 2 Southern Revi. 177, note; 1 Hume's Essays, 225, note M.