

clause, to wit:—"injuries done him in his person and property" and "being taken or imprisoned or deprived of his freehold, liberty or privileges or outlawed or exiled or in any manner destroyed or disfranchised of his life, liberty or property" do not belong to them by the constitution. It is needless to argue the question as we have high authority which is conclusive on this subject. Thus if the constitution should declare that every *freeman* should vote and it were judicially declared that the word *freeman* did not embrace free negroes to entitle them to the right of suffrage; it would be a decision that no other right enumerated in the constitution or bill of rights as belonging to *freemen* could belong to free negroes by force of that word. This is settled by a decision of the Supreme Court of Pennsylvania, and although it is not absolute authority in this State yet coming from a judicial tribunal distinguished for its legal learning, it ought to be conclusive, and more particularly when that judicial tribunal is located in a region with every disposition to favor the free negro. This decision is closely in harmony with the genius of our government. It is the case of *Hobbs and others vs. Fogg*, in 1837, contained in *Watt's Reports, Pennsylvania Decisions*, page 553.

#### HOBBS AND OTHERS AGAINST FOGG.\*

A negro, or mulatto, is not entitled to exercise the right of suffrage, at the general election, under the existing constitution and laws of Pennsylvania.

WRIT of error to the common pleas of *Luzerne* county.

This was an action on the case, brought in the court below, by William Fogg, the defendant in error, against the plaintiffs in error, Hiram Hobbs, inspector, and Levi Baldwin, John Miller, and Uriah A. Gritner, judges, of the general election, held in the county of Luzerne, on the 13th of October 1835.

The plaintiff below was a colored man, either a negro or mulatto, and, it would seem, brought this action, for the purpose of establishing a right, which he claimed to have, of voting at the general election, held in the county where he resided, for governor and other officers, as a citizen and freeman of the State, according to the provision in this behalf, contained in the constitution and laws.

The declaration set forth the election of Hiram Hobbs, by the electors of the township of Greenfield, in the county of Luzerne, on the 2d day of October 1835, as an inspector for the then ensuing general election, about to be held on the 13th of the same month; his acceptance of the office; also the due appointment of the other plaintiffs in error, as judges of the said general election; their acceptance of the office; and that they all, accordingly, acted in and exercised their respective offices, at and during the said general election; when and where the defendant in error, being one of the freemen, and citizens of the commonwealth of Penn-

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\* The report of this case was received too late for insertion amongst the decisions at the Sunbury term, to which it appertains.