

That the case was not reported, is probably owing to the fact that the judges gave no reasons; and the omission is the more to be regretted, as a report of it would have put the question at rest and prevented much unpleasant excitement. Still the judgment is not the less authoritative as a precedent. Standing as the court of last resort, that tribunal bore the same relation to this court, that the supreme court does to the common pleas; and as its authority could not be questioned then, it cannot be questioned now. The point, therefore, is not open to discussion on original grounds.

But the omission of the judges, renders it proper to show that their decision was founded in the true principles of the constitution. In the first section of the third article, it is declared, that "in elections by the citizens, every FREEMAN of the age of twenty-one years, having resided in the State two years before the election, and having within that time paid a State or county tax," shall enjoy the rights of an elector. Now the argument of those who assert the claim of the colored population is, that a negro is a man; and, when not held to involuntary service, that he is free; consequently that he is a freeman; and if a freeman in the common acceptance of the term, then a freeman in every acceptance of it. This pithy and syllogistic sentence comprises the whole argument which, however elaborated, perpetually gets back to the point from which it started. The fallacy of it, is its assumption that the term freedom signifies nothing but exemption from involuntary service; and that it has not a legal signification more specific. The freedom of a municipal corporation, or body politic, implies fellowship and participation of corporate rights; but an inhabitant of an incorporated place, who is neither servant nor slave, though bound by its laws, may be no freeman in respect of its government. It has indeed been affirmed by text writers, that habitation and paying scot and lot, give an incidental right to corporate freedom; but the courts have refused to acknowledge it even when the charter seemed to imply it; and, when not derived from prescription or grant, it has been deemed a qualification merely, and not a title. *Wilcox, chap. 3, p. 456.* Let it not be said that the legal meaning of the word freemen is peculiar to British corporations, and that we have it not in the charters and constitutions of Pennsylvania.

The laws agreed upon in England, in May 1682, use the word in this specific sense, and even furnish a definition of it. "Every inhabitant of the said province that is or shall be a purchaser of one hundred acres of land or upwards, his heirs and assigns; and every person who shall have paid his passage, and shall have taken up one hundred acres of land at a penny an acre, and have cultivated ten acres thereof; and every person that hath been a servant or bondsman, and is free by his service, that shall have taken up his fifty acres of land, and shall have cultivated twenty thereof; and every inhabitant, artificer, or other resident in the said province that pays scot and lot to the government; shall be deemed