

justice, is it to be credited that parity of rank would be allowed to such a race? Let the question be answered by the statute of 1726, which denominated it an idle and a slothful people; which directed the magistrates to bind out free negroes for laziness or vagrancy; which forbade them to harbor Indian or mulatto slaves, on pain of punishment by fine, or to deal with negro slaves, on pain of stripes; which annexed to the interdict of marriage with a white, the penalty of a reduction to slavery; which punished them for tippling, with stripes, and even a white person with servitude for intermarriage with a negro. If freemen, in a political sense, were subjects of these cruel and degrading oppressions, what must have been the lot of their brethren in bondage. It is also true, that degrading conditions were sometimes assigned to white men, but never as members of a caste. Insolvent debtors, to indicate the worst of them, were compelled to make satisfaction by servitude; but that was borrowed from a kindred and still less rational principle of the common law. This act of 1726, however, remained in force till it was repealed by the emancipating act, of 1780; and it is irrational to believe that the progress of liberal sentiments was so rapid, in the next ten years, as to produce a determination in the convention of 1790, to raise this depressed race to the level of the white one. If such were its purpose, it is strange that the word chosen to effect it, should have been the very one chosen by the convention of 1776, to designate a white elector. "Every freeman," it is said, chap. II, sect. 6, "of the full age of twenty-one years, having resided in this State for a space of one whole year before the day of election, and paid taxes during that time, shall enjoy the rights of an elector."

Now if the word freeman were not potent enough to admit a free negro to suffrage, under the first constitution, it is difficult to discern a degree of magic in the intervening plan of emancipation, sufficient to give it adequate potency, in the apprehension of the convention under the second.

The only thing in the history of the convention, which casts a doubt upon the intent, is the fact, that the word white was prefixed to the word freeman, in the report of the committee, and subsequently struck out; probably because it was thought superfluous, or still more probably, because it was feared that respectable men of dark complexion would often be insulted at the polls, by objections to their color. I have heard it said, that Mr. Gallatin sustained his motion to strike out on the latter ground. Whatever the motive, the disseverance is insufficient to warp the interpretation of a word on such settled and determinate meaning as the one which remained. A legislative body speaks to the judiciary only through its final act, and expresses its will in the words of it; and though their meaning may be influenced by the sense in which they have usually been applied to intrinsic matters, we cannot receive an explanation of them from what has been moved or said in debate. Were he even disposed to pry into the motives of the members, it would be impossible for him to ascertain them;