and in attempting to discover the ground on which the conclusion was attained, it is not probable that a member of the majority could indicate any thing that was common to all. Previous propositions are merged in the act of consummation; and the interpreter of it must look to that alone.

I have thought it fair to treat the question as it stands affected by our own municipal regulations without illustration from those of other States, where the condition of the race has been still less favored. Yet it is proper to say that the second section of the fourth article of the federal constitution, presents an obstacle to the political freedom of the negro, which seems to be insuperable. It is to be remembered that citizenship as well as freedom, is a constitutional qualification; and how it could be conferred so as to overbear the laws imposing countless disabilities on him in other States, is a problem of difficult solution. In this aspect the question becomes one, not of intention, but of power; and of power so doubtful as to forbid the exercise of it. Every man must lament the necessity of these disabilities; but slavery is to be dealt with by those whose existence depends on the skill with which it is treated. Considerations of mere humanity, however, belong to a class with which, as judges, we have nothing to do; and interpreting the constitution in the spirit of our institutions, we are bound to pronounce that men of colour are destitute of title to the elective franchise. Their blood, however, may become so diluted in successive descents as to lose its distinctive character; and, then, both policy and justice require that previous disabilities should cease. By the amended constitution of North Carolina, no free negro, mulatto, or free person of mixed blood, descended from negro ancestors, to the fourth generation inclusive, *though one ancester of each generation may have been a white person*, shall vote for members of the legislature.

I regret to say, no similar regulation for practical purposes, has been attempted here; in consequence of which, every case of disputed color must be determined by no particular rule, but by the discretion of the judges; and thus a great constitutional right, even under the proposed amendments of the constitution, will be left the sport of caprice. In conclusion, we are of opinion, the court erred in directing that the plaintiff could have his action against the defendant for the rejection of his vote.

Judgment reversed.

The free negro policy or institution is of no less importance than that of any institution or policy in our State. Our system of internal improvements or our system of education is not destined to work out for us more serious consequences. The free negro has received his position and his rights from the solemnity of legal enactment. It has been running onward for many years and is now seventy thousand strong. It is remarkable that this Legislature has by its own act expressed an opinion of its effects. There is now on our statute book an act which is declaratory of the effect and in its sense and intention shows the effect of the in-