

Barres upon ones Person or Estate, do not ineroach upon his Liberty, or
 take it in the least. Because id domum velle dicimus quod pure potestatis
 et quae pure non fuerit, nec facere nos posse credendum est l. 125. ff. de verb.
 signif. For securing against unjust Ineroachments upon Liberty, the
 Roman Law gives Actions de libero homine exhibendo, de privatis concubibus and
 against Non-Stealers. And both in England and Scotland there is Action of fact
 Imprisonment. But then when Men are said by Nature to be in a State of Free-
 dom, by Nature, is understood, the Right of Nature antecedent to all humane Acts
 the contrary. That is, the Man be not by Nature a Slave or subject to any
 from thence he cannot derive Right of being always exempted from Slavery
 and Subjection. Therefore Slavery and Bondage was introduced by the Law of
 Nations 4. ff. de just. et jur.

Slavery, is the Subjection of one Person to the Dominion of another con-
 trary to his natural Liberty. We cannot certainly assign the Time when
 Subjection was first introduced. Some run it up to Noah, Aclimus Avitu
 lib. 4. poem. Because Noah awaking from his Wines said, cursed be Can-
 an, a Servant of Servants shall he be to his Brethren Genes. 9. 25. Others
 make Nimrod to be the Author of Slavery so. Parisberionis lib. 1. politici-
 cap. 4. Porcius lib. 15. in Genes. Conrad. Kittershus Schol. ad oppian. Because
 he was a mighty Hunter Genes. 10. 9. that is, as some think, a mighty In-
 er of his Neighbour's Rights and Properties, and Persecuter of innocent
 Men, bringing the Country in Subjection to him by Men gathered und
 his Command, upon a Pretence of Hunting. Others again, attribute the
 Introduction of Slavery to Minas King of the Assyrians, who first made
 upon his Neighbours, Justin, and Orosius. But waving these Conjectures
 I chuse rather to ascribe the Original of Slavery to an uncertain Time
 when humane Necessity and Conveniency required it. Hence arose
 the Distinction of Masters and Servants.

Servants are either Slaves, or Hirelings, or Apprentices

Sect. i.

Concerning Slaves.

Slaves, are Servants in the most proper Sense, who are in the Power of
 their Master, and who belong to him in such a Manner, that the Master
 may sell them, dispose of their Persons, their Industry and their Labour,
 and who can do nothing, have Nothing, nor acquire any thing, but what
 must belong to their Master. They are at the Arbitrary Pleasure
 of their Masters, and may be sold by them as their goods.
 Men became Slaves several ways. 1^o Captives taken in a just
 war were Slaves by the Law of Nations: that the Captors from
 a prospect of Advantage, by the Prisoners Services might be
 inclined to forbear a strict or Prigorous from killing them either in
 fight or in cold Blood. Whence Servus dicitur a Servando
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l. 2. ff. de statu Rom. quasi servatus in Bello: Because
 his life was saved upon the Condition of perpetual Service. But Servus
 was in our Language, quasi Servus, comes from the Latin Servus
 over. Some Modern Etymologists derive the Word Slave from
 Slavi or Sclavi a Germanic or Sclavonian People, who being Conquered
 by the Venetians and Circassians were put to the hardest Labour, &
 their Robust Bodies were capable of. Hence Sclavus or Slavus
 was extended to signify a captive or Bondman of any other Na-
 tion, Jo. de Vitiis version. lib. 2. cap. 17. Which is only a little
 modified in the French Esclave, the Spanish Esclavo the
 Italian Schiavo and less in our Slaves. 2^o Some being sensible
 of their own Weakness and Incapacity for getting a Liberty, had
 unwillingly submitted to Slavery, that they might be provided for at
 their Masters cost. These were properly termed Bondmen: because
 they bound themselves by bond or Covenant to serve. 3^o Others were
 sold for servants by their Parents thro' extreme poverty. 4^o Others
 again were adjudged to Slavery for their Crimes.

Slaves by the Civil Law were in a despicable and miserable condi-
 tion. For tho' it Restricted the unconstrained Power of Life and Death
 which the Master had by the Law of Nations over them, to Moderate
 Chastisement l. 1. l. 2. ff. de his qui sui vel alieni. jur. It allowed him
 even to kill them upon great Provocation l. 53. ff. de Legat. 1. l. 96.
 ff. de Verb. Oblig. He possessed them as his Cattle or other goods,
 could gift, bequeath, sell and dispose of them at his pleasure l. 118. ff.
 de R. J. l. 2. ff. ad l. Aquil. A Slave was held to be Nobody l. 32.
 ff. de R. J. and esteemed almost in the like State with one Dead
 l. 209. ff. de R. J. He could act only in the Person of his Master, and
 what ever he gained accrued to his Master l. 11. ff. de Acquis. Res.
 Dom. And no Civil Action lay for or against him l. 107. ff. eod.
 l. 7. C. de judic. The two Ways of Confering Freedom was by the
 Masters last Will when he in consideration of the Slaves faithful
 Service left him free in his Testament; or by Manumission.
 The Ceremony of Manumission was thus performed. The Slave
 was brought before the Pretor by his Master who laying his hand
 upon the Servants head said to the Pretor, Hunc Hominem Libera-
 tum esse volo: And with that let him go out of his hand which
 they termed emanumittere. Then the Pretor laying a Rod
 upon his head called Vindicta, said Dico eum liberum esse
 more Quiritium. After this the Lictor or Serjeant, taking
 the Rod out of the Pretors hand, struck the Servant several
 Blows upon his head, Face and Back. Nothing now remained,
 but Silio Pontari to receive a Cap in token of Liberty; and
 to have his Name entered in the Common Roll of Freemen,
 with the reason of his Manumission. The Master became
 Patron of his Freedman, who was called Libertus or Libertinus,
 and distinguished from one born free called Ingenuus, by
 his being obliged to show extraordinary Reverence and Obedi-
 ence to his Patron, and to do some offices for him.

There were also among the Romans a sort of Persons who,