

MR. APLIN'S OPINION.

SIR,

YOUR letter of the tenth of October last, in which you desire my opinion on a stated case, I have both received and carefully perused: And I am much mistaken indeed, if an action of Trover does not lie for the conversion of a Negro in this Province. I am almost tempted to say, that it is the only proper action, unless the taking should appear in proof to be a tortuous one. In this latter case, the Plaintiff has his election, either to bring this action, or trespass. Property in the Plaintiff, and a subsequent conversion, are the characteristic ingredients of an action of Trover.

BUT the question is, whether a Negro is or can be, in the legal sense of the word, the property of any Man in this Province?

Now, whether a Negro is or can be the property of any Man in this Province, will emphatically depend upon another question—Whether a Negro can or cannot be a Slave in this Province? For if he can be a Slave here, I think when we come coolly to consider the legal dominion which the master has over him, he cannot be taken to be any thing less than his Master's property. If so, Trover must necessarily lie against any Man who detains the Slave, after a demand and refusal;—unless, indeed, the general Law, in respect to Trover, is laid prostrate in favour of this species of property.

Two things, therefore, at this stage of the inquiry, seem to offer themselves for distinct consideration.—First, whether a Negro can, in this Province, be a Slave? Secondly, although he may legally be a Slave here; yet, whether he can legally be deemed the property of any other Man?

ANSWERING the first of these questions will, I think, go a great way towards answering the other.

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