

father violating this law was subjected to the grotesque punishment of being enclosed in a sack with a serpent (a dog, a cock, and an ape, were added by Tribonian) and cast into the sea. Another constitution was issued in 329 which at first view seems rather inconsistent with this thesis, since it provided that any one who should purchase a new born child and rear it should have the full power of holding and possessing him. And if the owner or father desired to recover it he was obliged to give a slave in his stead, or pay the price at which the preserver should value the child. You will recollect that by a sale under the *patria potestas* the liberty of the free Roman was not extinguished—only veiled—and the parents or the person sold might assert his liberty without recompensing the purchaser. In the troubled condition of the Empire, the people harassed with the exactions of contending claimants for supremacy, the country devastated by opposing armies, when every highway and by-way resounded with the clash of arms or the tread of marching troops, few even of the benevolent would care to purchase or collect sold or exposed infants which might be reclaimed at any time without reimbursing the expense of maintenance. It was therefore a wise and benevolent provision for the security of the helpless, and would induce persons to purchase those that would otherwise perish, to give the right of ownership to the purchaser. The child bought under this law became truly a slave, but subject to the contingency of redemption on payment of his value, or by the substitution of another slave in his place.

A further advance was made two years later, (331) toward securing children from exposure. A constitution was issued in that year giving to any one who should pick up a boy or a girl cast out of home with consent and knowledge of the father or master and should feed and restore him or her to vigour, the right to retain him or her either as a son or daughter or as a slave, without any apprehension of being recovered. This evidenced great progress on the side of humanity, as it made no distinction whether the abandonment was caused by want or pressed by no necessity. All that was required was that the father or master should know, or wish, or require the act to be done. And he no longer had the right, preserved to him under the former law, of recovering the child on paying for its maintenance. This provision was neither cruel nor unjust. Constantine thought that the wicked practice of exposing children was subjecting them to death, and he wished to deter masters and fathers from doing it. To poor parents he had already (315) provided means of sustenance. He desired further to deter fathers and masters by the dread of losing the right of asserting the freedom of