

Handout

Case Studies

The Joseph Gutches Case

Joseph Gutches, an enslaved African, took his owner Richard Cartwright to court in 1787. Gutches claimed that he was being held illegally as a slave. Joseph argued that “he was taken by the Indians and sold for a slave for life, but that he was at the time of his capture bound only to serve until 21 years of age.” Cartwright’s reply to the Civil Board on August 16, 1787, asserted that Joseph had always been a slave.

. . . The original Proprietor of him was one Jonas Vrooman of Schohary, in the State of New York. In an incursion of the Indians during the late War, this man was killed, and the Negroe brought to Niagara, he was there sold to a Mr. Dunn at that time belonging to the Indian Department, by him resold to a Mr. Allen, and from Mr. Allen I purchased him for an hundred and twenty five New York currency

I have every reason to believe that he was legally a slave, from the testimony of people who knew him when in the possession of Vrooman some of whom are still at Niagara . . .

The judge ruled in Cartwright’s favour.

From Sherry Edmunds, “*Slavery in the Kingston, Ontario, and Bay of Quinte Region*,” pp. 50-53.

Case of Jack, an Enslaved African

Jack, an enslaved African, took his master Croisdale to court in 1793 at the Quarter Sessions held in Adolphustown. Croisdale was ordered to “keep the peace and in particular to Jack his Negro Boy.” In 1794 Jack charged Croisdale with assault and battery, to which the latter pleaded not guilty. Croisdale was found not guilty by the jury.

From Sherry Edmunds, “*Slavery in the Kingston, Ontario, and Bay of Quinte Region*,” p.41

The Case of Charlotte

An enslaved Black woman named Charlotte was owned by Jane Cook in Montreal. In February of 1798 she escaped and was arrested by a magistrate’s order. She refused to

return to her owner and was thrown in prison. She demanded the right of habeas corpus or the right to be brought before the judge to determine the legality of her imprisonment rather than remain behind bars indefinitely. Because the court was in recess, Chief Justice William Osgoode took it upon himself to free Charlotte outright and she was not required to appear in court thereafter. This decision by Osgoode caused a great agitation among enslaved Africans in and around Montreal, who apparently threatened a general revolt. These enslaved people wanted their freedom in the same manner that Charlotte had won her freedom.

From Marcel Trudel, *L'Esclavage au Canada français*, p. 302

The Case of Judith

Judith was purchased in 1795 in Albany, New York by a merchant named Elias Smith and brought to Montreal by her owner. After Charlotte was freed by Chief Justice Osgoode in early 1798, Judith escaped. Smith had her arrested and put in prison. She too demanded the right of habeas corpus and was set free on March 8, 1798. Justice Osgoode stated that he would discharge all Blacks, licensed apprentices and domestic servants who were imprisoned by a magistrate under similar circumstances. The basis of Osgoode's ruling was that the original law stated that slaves, servants and apprentices were to be sent to houses of correction as opposed to prisons, and in the absence of these, he would set them free.

From Marcel Trudel, *L'Esclavage au Canada français*, p. 303

The Case of Manuel

Jervis George Turner sold an enslaved man named Manuel to a tavernkeeper, Thomas Sullivan. The latter made an initial payment of 18 Pounds in Quebec currency to Turner. He also promised Manuel that he would manumit (release him from servitude) him in five years. On March 1, 1798, Manuel escaped like the two women above, Charlotte and Judith. As a result, Sullivan refused to pay the balance of what he owed Turner, who sued him. In court, Sullivan claimed that Turner had sold him a free Black and he demanded his money back. Manuel interceded on Sullivan's behalf, adding that Turner did not have the right to sell him because the laws of this country did not recognize slavery. On December 18, Justice Osgoode rendered the decision that Turner had not proven that he in fact owned Manuel, and therefore, that Sullivan could not establish his right of ownership of the "slave." Consequently, the sale was null and void and Turner was ordered to repay the 18 Pounds already given to him by Sullivan. As for Manuel, although his statement that this country did not recognize slavery was rejected by the court, according to Osgoode, he was never sold and, therefore, Manuel became a free man.

From Marcel Trudel, *L'Esclavage au Canada français*, p. 303

Student Activity Package: Attacking Slavery through the Courts

Your Task

Read each synopsis of the court cases relating to slavery in Upper and Lower Canada. Complete the Case Study Analysis Questions for each case. Once you have completed this task, you will then answer the “Synthesizing the Issues” questions. Share your responses, findings, conclusions and reflections with the class.

Case Study Analysis Questions

Name the plaintiff(s):
What is their argument?
What is the basis for their argument?

Name the defendant(s):
What is their argument?
What is the basis for their argument?

List the facts of the case:

What is the legal and/or constitutional question before the court?

What is the court's decision? Explain the court's decision.

What is your assessment of the court's decision? Do you agree with the decision? Why or why not? If you were the presiding judge, how would you rule? Provide defensible reasons and justification to support your position.

What impact do you think the decision will have in Upper and Lower Canada?

Synthesizing the Issues

1. Even though cases of slaves were heard, judges sometimes ruled against them. What might some of the reasons for this be?
2. Why should the fact that enslaved Africans took their masters to court be seen as a form of resistance?
3. What impact did this form of slave resistance have on other enslaved people? Use some examples.
4. Why do you think enslaved Africans demanded the right of habeas corpus? What are the benefits of habeas corpus?

**Archives of Ontario Lesson Plans:
Attacking Slavery through the Courts**

5. The requirement that slave owners provide proof of ownership was one way that judges placed restrictions on slavery. Explain.
6. Describe the importance of judges like William Osgoode in the fight to abolish the practice of slavery.

Marking Rubric

Criteria	Level 4	Level 3	Level 2	Level 1
<p>Knowledge and Understanding</p> <p>Understanding of key terms</p> <p>Understanding of content (the impact of the legal battle against slavery)</p>	<p>Understands all key terms</p> <p>Demonstrates thorough understanding of the impact of the legal battle against slavery</p>	<p>Understands most of the key terms</p> <p>Demonstrates considerable understanding of the impact of the legal battle against slavery</p>	<p>Understands some of the key terms</p> <p>Demonstrates some understanding of the impact of the legal battle against slavery</p>	<p>Understands a few key terms</p> <p>Demonstrates limited understanding of the impact of the legal battle against slavery</p>
<p>Thinking and Inquiry</p> <p>Use of processing skills, use of critical/ creative thinking processes</p>	<p>Uses processing, analytical, and interpretive skills with a high degree of effectiveness</p>	<p>Uses processing, analytical, and interpretive skills with considerable effectiveness</p>	<p>Uses processing, analytical, and interpretive skills with some effectiveness</p>	<p>Uses processing, analytical, and interpretive skills with limited effectiveness</p>
<p>Communication</p> <p>Use of conventions, vocabulary, and terminology of the discipline in oral, visual, and written forms, including media forms</p>	<p>Answers all questions correctly and concisely</p>	<p>Answers most questions correctly and concisely</p>	<p>Answers some questions correctly</p>	<p>Answers few questions correctly and concisely; requires assistance</p>
<p>Application</p> <p>Application and transfer of knowledge and skills (concepts of law and the judicial systems)</p>	<p>Applies and transfers knowledge and skills in familiar contexts with limited effectiveness</p>	<p>Applies and transfers knowledge and skills in familiar contexts with some effectiveness</p>	<p>Applies and transfers knowledge and skills in familiar contexts with considerable effectiveness</p>	<p>Applies and transfers knowledge and skills in familiar contexts with a high degree of effectiveness</p>