

**Second Trial – October 3, 1833**  
Held at Brooklyn, CT, the County seat

With his influence, Andrew Judson was able to move the trial up from December to October. Prudence received only six days notice of the change and it caught her lawyers and supporters off guard. Samuel J. May, friend and staunch supporter of Prudence's, had gone on a lecture tour and could not return in time. He advised the lawyers that if the case went against them, they should appeal to the Court of Errors.

**Chief Justice, David Daggett of New Haven.**

**Associate Judges Clark Bissell and Thomas Williams**

- ◆ Judge Daggett, a former mayor of New Haven and vocal supporter of the Black Law, had strenuously opposed a school for black men in that town in 1831. He was also vice president of the Hartford Colonization Society.

**Defense Attorney: William Wolcott Ellsworth, graduate of Yale**

**Prosecuting Attorneys: Andrew T. Judson of Canterbury  
Chauncey F. Cleveland**

When the trial began the Defense entered a plea of not guilty and both sides restated the points they'd made in the first trial. Judge Daggett encouraged the jury to put aside any feelings they might have had regarding the "popularity or unpopularity" of the Black Law, yet he reminded them that the court had a right to give its opinion. It was his opinion that "to call slaves, Indians or free blacks 'citizens,' ... would be a perversion of the term as it was used in the United States Constitution. Such persons were not styled as citizens, he maintained, when the Constitution fixed the basis for representation as 'free persons' and excluded indentured servants and Indians." (*A Whole-Souled Woman*, Susan Strane, pg. 110.)

Daggett also stated that even if blacks were citizens, he wasn't sure the Black Law would be unconstitutional because legislatures could regulate schools. Education was a fundamental right, but the law did not prohibit schools. 'It places them under the care of the civil authority and the selectman and why is this not a very suitable regulation?' (Strane, pg. 111) Judges Bissell and Williams did not agree with Daggett, but they remained silent.

Daggett's charge to the jury prevailed and they found Prudence guilty. "The Defense immediately filed a motion in arrest of judgment on two technical points: that the

superior court had no jurisdiction over the offenses charged, and that the particular information in the formal charge was insufficient." (Strane, pg. 111)

Because of the appeal, Prudence was not sentenced.

Reference: Strane, Susan. *A Whole-Souled Woman*. NY: W.W. Norton and Company, 1991.

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