

Third Trial – July 26, 1834

Court of Errors, held in Brooklyn, CT, the County Seat

♦ Though the final decision was handed down in Hartford.

Chief Justice David Daggett

Associate Judges Samuel Church, Clark Bissell, Thomas S. Williams

Defense Attorneys: William Ellsworth

Calvin Goddard

Prosecuting Attorneys: Andrew T. Judson

Chauncey F. Cleveland

The Defense argued that the students were not “foreigners” or “aliens” so different from other individuals that they merited special treatment, and they posed no threat to anyone. They came from respectable families. The Black Law, Att. William Ellsworth argued, posed a problem of how much power the legislature was allowed to execute. “If it was a crime to teach, feed, and entertain such citizens, then it might be made equally criminal to sell them a farm or rent them a house. Ellsworth argued, posed a problem of how much power the legislature was allowed to execute. “If it was a crime to teach, feed, and entertain such citizens, then it might be made equally criminal to sell them a farm or rent them a house. Yet the pupils were human beings born in the United States, and they owed the same obligations to the state as white citizens did. If allegiance was due from the colored population, Ellsworth maintained, its correlative was due from the government, namely protection and equal laws: ‘He (a colored person) is not a citizen to obey, and an alien to demand protection.’” (Strane, pgs. 146-147)

Prosecution’s argument given by Andrew T. Judson. Judson upheld the legislature’s prerogatives, indicating the state had the right to regulate its own schools in its own way, independent of the question of citizenship. Judson repeated that blacks were not citizens and were never meant to be by the framers of the Constitution: “It matters little what may be the opinion of a few madmen or enthusiasts now.” He was with the peril of facing not only Connecticut but also a the nation. “I would appeal to this court—to every American citizen and say that America is ours – it belongs to a race of white men, the descendents of those who first redeemed it from the wilderness. The American name and character have been handed down to this generation and it is our duty to preserve that character and perpetuate that name.” (Strane, pg. 147)

Judge Thomas Williams rendered the final decision at Hartford. The judges, unwilling to overrule Chief Justice Daggett, discovered a defect in the warrant. The original warrant of her arrest charged Prudence “with harboring and boarding colored persons, not inhabitants of this state, without license, for the purpose of being instructed.” This implied, according to Judge Williams, that the boarding house had not license, but the warrant did not specify that the school itself had no license. The object of the legislation was to regulate unlicensed schools, but because the information in the case omitted to

say the school was not licensed, it contained a 'fatal flaw.' Williams dismissed the case on the technicality of insufficient information. (Strane, pg. 148)

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

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