

Slave Laws Across Borders: Upper Canada (Ontario) and the United States in 1793

In 1793, Upper Canada and the United States split dramatically over the issue of legal slavery.

The Fugitive Slave Laws in the United States

In the United States, the first fugitive slave law, which guaranteed the right of a slave owner to recover an escaped slave, passed in the U.S. House of Representatives by a vote of 48-7 and signed into law by President George Washington in February.

This law was limited to the United States and its territories in the Northwest and south of the Ohio River and established that escaped slaves who were captured would be returned, and anyone aiding them would be fined. Slaves who escaped could be recaptured for their whole lives, and children born to escaped slaves were considered property of their mother's former owner.

The law expanded the slave-catching trade and resulted in the kidnapping of free citizens to be sold into slavery in the American south. (The most prominent example is Solomon Northup, whose story is told in *12 Years a Slave*.)

However, the fugitive slave laws were strengthened by The Compromise of 1850, five bills that strengthened the fugitive slave law and expanded it to free states. It required all federal judges and law-enforcement officials in the United States to actively assist in returning escaped slaves to their owners and increased the penalties for assisting fugitive slaves. It also established that a "posse" of ordinary citizens could be recruited to aid in the capture and return of a slave. It eliminated the ability of anyone accused of being an escaped slave to testify in court. This increased the ability of slave hunters to kidnap and sell free men into slavery.

Act Against Slavery of 1793

In Upper Canada in 1793, the province's first Lieutenant Governor, John Graves Simcoe, heard the testimony of Chloe Cooley, a female slave who had been beaten as she was taken back to the United States. Simcoe and his Attorney General, John White.

There were slaves in Upper Canada, and six of the sixteen members of the Legislative Assembly owned slaves and opposed restricting the slave trade, and so outright abolition of slavery was not possible. However, a compromise in the form of *An Act to Prevent the further Introduction of Slaves and to limit the Term of Contracts for Servitude within this Province* (more commonly called The Act Against Slavery) made Upper Canada the first British colony to severely limit slavery. It stated that all slaves within the province would remain slaves, but new slaves could not be brought into Upper Canada. All children born to slave mothers would become free on their 25th birthday. The Act also required that slave owners provide security so that freed slaves would not become a public burden to discourage slave owners from tossing out slaves who were unable to work and support themselves.

This act paved the way for the establishment of the Underground Railroad, since slaves who reached Upper Canada would no longer legally be considered slaves, and a series of court decisions that required the strictest proof of ownership of a slave, which was rarely available, to ensure the return of an escaped slave. However, it's important to note that slaves were not specifically going to Canada, but to anywhere that would be safe. The expansion of the fugitive slave laws into free states that had previously been able to shelter slaves spurred an increase in the number of American slave refugees headed to Canada.

In 1798, Christopher Robinson introduced a bill in the Legislative Assembly to allow the importation of more slaves to the province, but it was blocked by the Legislative Council (the upper chamber, equivalent to a senate) and died at the end of the legislative session.

The Act Against Slavery remained in force until the British Parliament's Slavery Abolition Act abolished slavery in all parts of the British Empire (passed in 1833 and effective in 1834).

In the Western District. Special Sessions at Michillimackinac. (See 17 Geo III, c 11 -5, c 9 & 10 -56) c 1, s 4 -58, c 2.)

IV. } [Repealed by 36th George III. c 4, s 1.]
V. }

C H A P. VII.

An Act to prevent the further introduction of SLAVES, and to limit the Term of Contracts for SERVITUDE within this Province.

[9th July, 1793.]

Preamble.

WHEREAS it is unjust that a people who enjoy Freedom by Law should encourage the introduction of Slaves, and whereas it is highly expedient to abolish Slavery in this Province, so far as the same may gradually be done without violating private property; Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That from and after the passing of this Act, so much of a certain Act of the Parliament of Great Britain, passed in the thirtieth year of His present Majesty, intituled "An Act for encouraging new Settlers in His Majesty's Colonies and Plantations in America," as may enable the Governor or Lieutenant Governor of this Province, heretofore parcel of His Majesty's Province of Quebec, to grant a licence for importing into the same any Negro or Negroes, shall be, and the same is hereby repealed; and that from and after the passing of this Act, it shall not be lawful for the Governor, Lieutenant Governor or Person administering the Government of this Province, to grant a licence for the importation of any Negro or other person to be subjected to the condition of a Slave, or to a bounden involuntary service for life, into any part of this Province; nor shall any Negro, or other person who shall come or be brought into this Province after the passing of this Act, be subject to the condition of a Slave, or to such service as aforesaid, within this Province, nor shall any voluntary contract of service or indentures that may be entered into by any parties within this Province, after the passing of this Act, be binding on them or either of them, for a longer time than a term of nine years, from the day of the date of such contract.

Recital of Act 30 Geo. III.

The same in part repealed.

Provisions against the further introduction of slaves.

Term of servitude by contract limited.

The owners of slaves at present within the Province, confirmed in their property therein.

II. Provided always, That nothing herein contained shall extend, or be construed to extend to liberate any Negro, or other person subjected to such service as aforesaid, or to discharge them or any of them from the possession of the owner thereof, his or her executors, administrators or assigns, who shall have come or been brought into this Province, in conformity to the conditions prescribed by any authority for that purpose exercised, or by any Ordinance

nance or Law of the Province of Quebec, or by Proclamation of any of His Majesty's Governors of the said Province for the time being, or of any Act of the Parliament of Great Britain, or shall have otherwise come into the possession of any person, by gift, bequest or bona fide purchase before the passing of this Act, whose property therein is hereby confirmed, or to vacate or annul any contract for service that may heretofore have been lawfully made and entered into, or to prevent parents or guardians from binding out children until they shall have obtained the age of twenty-one years.

Nothing herein to extend to contracts for service already made, nor to parents or guardians.

III. And in order to prevent the continuation of Slavery within this Province, Be it enacted by the authority aforesaid, That immediately from and after the passing of this Act, every child that shall be born of a Negro mother, or other woman subjected to such service as aforesaid, shall abide and remain with the master or mistress in whose service the mother shall be living at the time of such child's birth, (unless such mother and child shall leave such service, by and with the consent of such master or mistress) and such master or mistress shall, and is hereby required to give proper nourishment and cloathing to such child or children, and shall and may put such child or children to work, when he, she or they shall be able so to do, and shall and may retain him or her in their service, until every such child shall have attained the age of twenty-five years, at which time they and each of them shall be entitled to demand his or her discharge from and shall be discharged by such master or mistress, from any further service. And to the end that the age of such child or children may be more easily ascertained, the master or mistress of the mother thereof, shall and is hereby required, to cause the day of the birth of every such child as shall be born of a Negro or other mother, subjected to the condition of a Slave, in their service as aforesaid, to be registered within three months after its birth, by the Clerk of the parish, township or place wherein such master or mistress reside, which Clerk shall be authorized to demand and receive the sum of one shilling, for registering the same. And in case any master or mistress shall refuse or neglect to cause such register to be made, within the time aforesaid, and shall be convicted thereof, either on his or her confession, or by the oath of one or more credible witness or witnesses, before any Justice of the Peace, he or she shall, for every such offence, forfeit and pay the sum of five pounds, to the public stock of the District.

The children that shall be born of female slaves, to remain in the service of the owner of their mother until the age of 25 years, when they shall be discharged.

Birth of the children of slaves to be recorded.

Penalty for neglecting or refusing to record the same.

IV. And be it further enacted by the authority aforesaid, That in case any master or mistress shall detain any such child born in their service as aforesaid, after the passing of this Act, under any pretence whatever, after such Servant shall have attained the age of twenty-five years, except by virtue of a contract of service, or indentures, duly and voluntarily executed, after such discharge as aforesaid, it shall and may be lawful for such Servant to apply for a discharge to any of His Majesty's Justices of the Peace, who shall and is hereby required thereupon to issue a summons to such master or mistress, to appear before him to shew cause, why such Servant should not be discharged, and the proof that such Servant is under the age of twenty-five years, shall rest upon and be adduced by the master or mistress of such Servant; otherwise it shall and may be lawful for the said Justice to discharge such Servant from such service as aforesaid, Provided always, That in case any issue shall be born of such children, during their infant servitude, or after such

Remedy against the undue detention of such children.

Provision for the issue of children of slaves

"An Act Against Slavery" by Legislative Assembly of Upper Canada - This image is available from the Archives of Ontario under the item reference code An Act to Prevent the further Introduction of Slaves and to limit the Term of Contracts for Servitude, Statutes of Upper Canada, 3 George III, Cap. 7, 1793