

# THE SLAVE IN UPPER CANADA

BY WILLIAM RENWICK RIDDELL

**I**T was the boast of the Englishman that slavery did not, and could not, exist in his land. Cowper sang: "Slaves cannot breathe in England: if their lungs receive our air, that moment they are free; they touch our country and their shackles fall." And Cowper had solid ground for the boast, for about a dozen years before he wrote "The Task" Lord Mansfield with his Court of King's Bench had set free the negro, James Somerset, who, a slave in Jamaica, had been brought by his master, Charles Stewart, to England to "attend and abide with him and to carry him back as soon as his business was transacted".

It is true that the reasons given for the judgment would hardly hold water now. The court considered that villenage was the only form of slavery known in England in early time, and as villenage was abolished by Act of Parliament on the return of King Charles II. from exile, slavery could no longer exist.

More recent research has made it clear that the villen was in much the same case as a serf; but that at least as late as the middle of the 12th century there were slaves in England, actual personal slaves, bought and sold as in the Southern States before the Civil War, and quite distinct from villeins or serfs.

But while the reasons for the judgment might be bad, the judgment was considered law and has never been overruled. Slavery is so odious that nothing could be suffered to support it but positive law, and no such positive law could be adduced.

But the Court of King's Bench was speaking for England, and recognized that in the American Colonies and elsewhere slaves were, or might be, goods and chattels, and as such saleable and sold.

At the time of the conquest of Canada in 1760 there were slaves in that colony, both Panis (Indian slaves) and negroes; and when the United Empire Loyalists came into the upper part of the country (afterwards Upper Canada), some of them brought negro slaves with them.

The Province of Quebec, formed in 1763 by Royal Proclamation, was divided in 1791 into two Provinces, Upper Canada and Lower Canada. Slavery certainly existed in both Provinces at that time. Moreover, the Imperial Parliament in 1790 passed legislation enabling the Governor to grant a licence to import negro slaves into Canada. Col. John Graves Simcoe, who was the first Lieutenant-Governor of Upper Canada, loathed slavery and had spoken against it in England; and it was not long before his attention was called to its horrors in his new Government. At a meeting of the Executive Council held at Navy