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# The Lemmon Slave Case

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A Guided Research Project  
in collaboration with the  
Historical Society of the  
Courts of the State of  
New York

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## **GETTING STARTED!**

### **What is Research?**

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### **Keeping a Research Notebook or Digital Folder**

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When doing research it is very important to stay organized and to take detailed and comprehensive notes on all of the materials you encounter. You will continue to complete a Reading Journal/Log for each primary source document that you read and write a summary of all secondary source readings.

You will be reading and collecting a number of sources. It is important that you maintain good records and keep all of the readings and your notes together in an accessible and safe place.

#### ***Why is it important to take good notes?***

If you take good active reading notes and write good RLJ's and summaries you won't have to re-read documents and sources for a second or third time when it is time to write your paper. Instead, your notes will provide you with a rich variety of important ideas and quotations. If you capture all of your good ideas after your first and second reading of each source you will have lots to work with when writing your paper.

#### ***Why do I have to write out the full citation information on my RLJ's and summaries?***

When the time comes to include citations for your paper it will be quick and easy to import the citation information if it is correctly written in your RLJ's and summaries. You won't have to search for it or consult the MLA guide.

## **The Lemmon Slave Case**

### Background

In November 1852, Jonathan Lemmon and his wife Juliet, who were residents of Virginia, took the steamer *City of Richmond* from Norfolk, Virginia to New York with eight slaves belonging to Mrs. Lemmon; for the purpose of catching a follow-on boat to Texas where they planned to reside. The slaves were Emiline (age 23); Nancy (age 20); Lewis, brother of Nancy (age 16); Edward, brother of Emiline (age 13); Lewis and Edward, sons of Nancy (age 7); Ann, daughter of Nancy (age 5); and Amanda, daughter of Emiline (age 2). While waiting for the boat the slaves were placed in a boarding house at No. 3 Carlisle Street in Manhattan.

Upon their discovery at Carlisle Street, a free black man named Louis Napoleon immediately obtained a writ of habeas corpus on November 6, 1852 against Mr. Lemmon and the owner of the house (whose name was unknown). The writ was obtained on behalf of the eight persons who Mr. Napoleon was advised and believed were “not slaves, but free persons, and entitled to their freedom.” The writ was based on an 1817 New York law that stated *No person held as a slave shall be imported, introduced, or brought into this State on any pretense whatever. Every such person shall be free.* Napoleon’s writ demanded the release of the enslaved persons. He also stated in the writ that he did not have access to the persons enslaved by the Lemmons and therefore they could not sign the petition but they desired their freedom.

On November 13, 1852, Judge Paine of the Superior Court of the City of New York held that necessity did not require the Lemmons travel to Texas via New York. Thus, the slaves were free according to New York state law. Paine relied on the English precedent set in *Somerset v Stewardt* (1772), where the Court of King’s Bench declared that only positive law could uphold slavery and that since England had no laws upholding slavery, slaves entering English territory became free.

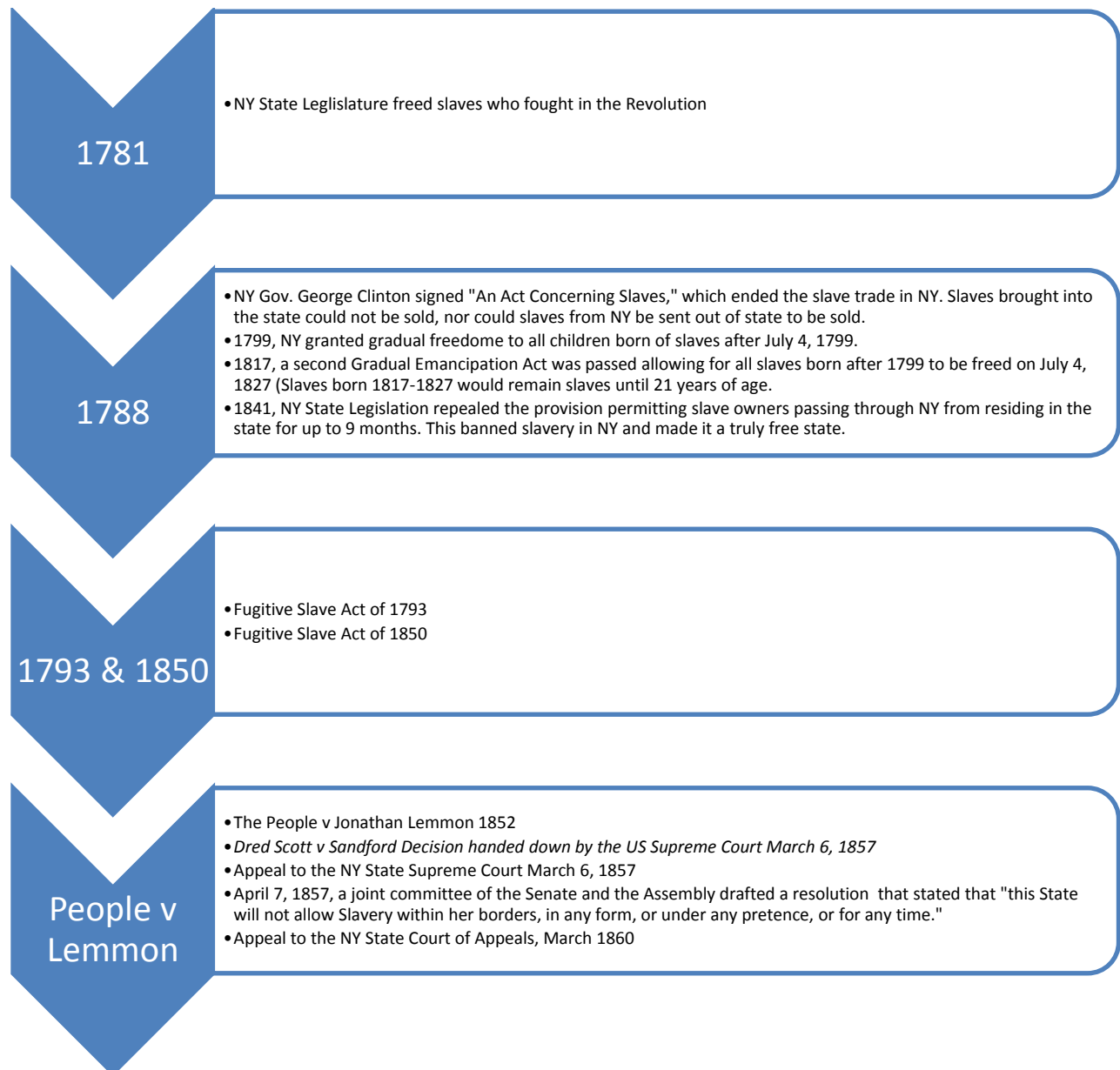
### **Research Questions:**

# THE LEMMON SLAVE CASE

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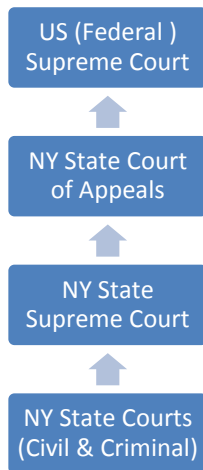
## Timeline

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## Hierarchy of New York State and Federal Courts Relevant to the Lemmon Case

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### 19<sup>th</sup> Century Legal Concepts and Glossary

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- **Writ of Habeas Corpus:** [translation from Latin - “may you have the body.”] It is a legal action that requires anyone named in the document to appear before a judge.
- **Legal Precedent:** A finding or principle established in a previous legal case that is used to persuade a judge how to interpret the law in a current legal case with similar issues.
- **Positive Law:** Anti-slavery proponents argued that according to the law of nature all men and women were free. In order for slavery to be recognized by a state or nation a positive law had to be enacted, one that stated that slavery was legal and permissible.
- **Comity:** This concept is based in the U.S. Constitution, Article IV, Section 2, Clause 1 also known as the Privileges and Immunities Clause. Comity prevents one state from discriminating against the residents of another state.
- **Somerset v. Stewart (1772):** Judgment by the English Court of King’s Bench that decided slavery was not legal under current law. In his judgment Lord Mansfield said:

*“The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons, occasions, and time itself from whence it was created, is erased from memory. It is so odious, that nothing can be suffered to support it, but positive law.”*
- **Writ of Certiorari:** In Latin Certiorari means “inform, apprise, or show.” In the Lemmon case, the writ of certiorari was granted to Jonathan Lemmon by the Supreme Court. The Supreme Court agreed to hear his appeal, and reconsider the case from the lower court.

- Eloign: to remove or take away.
- Replevin: to recover property.
- Trover: a common law action to recover the value of goods.

## Key People and Organizations Involved in the Lemmon Case and Appeals

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- **Louis Napoleon**
- **New York Manumission Society**
- **American and Foreign Anti-Slavery Society**
- **Jonathan and Juliet Lemmon**
  - 8 Slaves: **Emeline, Robert, Lewis, Amanda, Nancy, Ann, Lewis, and Edward**
- **Justice Elijah Paine, Jr.**
- **John Jay**, former Chief Justice of the U.S. Supreme Court and Governor of New York
- **Erastus Culver**, anti-slavery lawyer who represented the slaves named above in court
- **Joseph Blunt**, assisted Erastus Culver on the case.
- **Charles O'Connor**, pro-Southern and pro-slavery lawyer who represented Lemmon's and the State of Virginia's interest in the appeal to the Supreme Court.
- **Dred Scott**
- **Chester A. Arthur**, represented the slaves and New York's position on slavery. He was an anti-slavery attorney who would later be a President of the United States.
- **Judge Denio and Wright**, wrote affirmative opinions in the Court of Appeals case.
- **Judge Clerke**, wrote a dissenting opinion in the Court of Appeals case.

## Introduction and Overview of the Case

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In the historical record the *Lemmon* case is overshadowed by the famous *Dred Scott v. Sanford* case. *Lemmon* is of interest to us as New Yorkers seeking to better understand the history of slavery in our state. Its wider impact helps everyone gain an understanding of how arguments about "the curious institution" of slavery were fought in court rooms before the battlefields of the Civil War. The *Lemmon* case tested whether slavery was legal in the State of New York for any reason or circumstance. By 1852, when the trial was presented in court, the slave trade and the practice of slavery was banned in New York. However, the nation was divided into slave states and free states. There were no enslaved New Yorkers, but questions arose about what should happen when slaves from other states ended up in New York for short and long periods of time.

As a historian you will have access to an archive of documents that include biographical information about key people involved, case records, newspaper articles, summaries of relevant state and federal legislation, and court documents. The historian's job is to piece together arguments with supporting evidence regarding what happened and why. This is a guided archival research project and your finished product will be an analytical research paper.

### **Brief Biography of Louis Napoleon (1800-1881):**

Louis Napoleon was born free in New York City, April 1800 to a father of Jewish heritage and an enslaved mother. At the age of 14 he was apprenticed to “Mrs. Miller’s Tobacco and Snuff Warehouse.”

In one account, Mr. Napoleon is believed to have altered the spelling of his name and transposed first for last and vice versa in “compliment” of the French emperor Louis Napoleon. Soon after entering the tobacco trade he was befriended by Gerritt Smith, Arthur and Lewis Tappan, Horace Greeley, Henry Ward Beecher, George William Curtis and Sydney Howard Gay. The cultivation of these relationships assuredly launched his career as a principal member of the antislavery movement and agent of the Underground Railroad.

He was arrested on several occasions but was able to avoid convictions based on the aid provided by his many influential friends and good legal counsel. Mr. Napoleon assisted many freedom seekers fleeing slavery but two that are particularly noteworthy are the important cases for emancipation he initiated by writs of habeas corpus.

### **Louis Napoleon’s involvement in Fugitive Slave Cases: George Kirk (1846)**

George Kirk was a freedom seeker from Savannah Georgia who was discovered by Louis Napoleon chained inside a ship on a New York dock at the foot of Maiden Lane in October 1846. In an attempt at self-emancipation, George Kirk had concealed himself in the fore steerage of the Brig Mobile while it had been in moored in the port of Savannah and covered himself with a sail in hopes of securing his freedom in New York. Unfortunately, he was discovered by the ship’s captain Theodore Buckley and questioned as to whether or not he was a “fugitive slave.”

Kirk eventually admitted that he had fled slavery and was promptly confined by Buckley. Buckley made the decision to return George Kirk to his owner Charles Chapman in Georgia when the vessel returned to Savannah and began preparations to do just that.

The same day that Mr. Napoleon discovered George Kirk, he went to the courthouse and obtained a writ of habeas corpus that required Captain Buckley to produce Kirk before a New York court. Buckley responded to the writ based on a Georgia law which allowed the return of fugitive slaves by a ship’s captain if the fugitive is found aboard the vessel without the knowledge of the Captain. Buckley stated that he had fully intended to return George Kirk to his “proper” owner and thereby had the legal right to detain him.

News of the case spread amongst the New York abolitionists and John Jay was secured as the lawyer for George Kirk. He argued that the “common law of all non-slaveholding is, that foreign slaves are no longer such after their removal into a non-slave-holding state” and cited the Somerset case as legal precedence. Jay conceded that George Kirk was the property of Charles Chapman and because Kirk was such, he argued that the defendant Buckley had no legal right to custody of him. Finally, Jay argued that if Buckley was acting as the agent of Chapman, he would have to be considered a general agent and therefore he must have willingly brought Kirk into the state and that Kirk was ipso facto free.

After hearing the arguments of John Jay for Kirk and the lawyers for Buckley, Judge J.W. Edmonds rendered a ruling that the “Georgia law could not operate beyond her territory” and also stated that Captain Buckley had no authority to act on the Georgia law. According to Judge Edmonds, New York could not authorize the captain to hold the fugitive, because to do so would have required New York executing the laws of Georgia. Kirk was set free and was secreted out of the courthouse. A new writ was issued for Kirk to appear before the mayor based upon a law that gave the captain the right to seek a hearing if a fugitive was found on his vessel. Again, Kirk appeared before Judge Edmonds; and again Judge Edmonds set him free.