

ONLY OUR OWN OPINION

"CONSTITUTIONAL PROHIBITION" IS UNCONSTITUTIONAL.
WOMAN'S SUFFRAGE AMENDMENT IS CONSTITUTIONAL.

THE DEFENSE OF RASTUS BROWN*

*Written as part of a mock trial for a negro minstrel, by Francis J. Vurpillat, ex-Judge of the 44th Judicial Circuit of Indiana and a member of the Law Faculty of the University of Notre Dame, Indiana. Published in Case and Comment, January, 1918, issue.

Yo' Hono' and Genmen of dis Jury:

Dar's pore Rastus Brown in de toils of de iaw. And what fo'? Fo' de stealin' of a chicken—fo' de takin' of a chicken. Now listen to de formal charge:

United States of America,
State of Indiana,
County of Nowhere,
Town of Oblivion.

In de Piecè of a Justice Court.

Joe Johnson, de town marshal, and Jim Jackson, de night watch, both being duly sworn, on deir oaths say dat in said county, on de moonlight night of de 24th day of December, one thousand nine hundred sixteen, *Annie Domino*, one Rastus Brown, early and late of said county, did den and dere feloniously and unlawfully steal, take, purloin, pilfer, and carry away of de personal belongings of Mister Wyandotte White one chicken, commonly called a rooster, but uncommonly called Chief Cockscomb, of de fictitious value of five hundred dollars, but of de real value of ten cents a pound, weighin' 3 pounds, bein' 30 cents,—against de peace and dignity of de aforesaid Johnson and Jackson and contrary to de Justinian and Blacks'-tonian codes.

Now, Genmen of dis Jury, Ma Friends, Negroes, Countrymen, lend

me yo' ears; and if yo' have any tears to shed prepare to shed dem now. I come not to bury pore Rastus but to save him. Yo' may think because de testimony shows dat Rastus was caught red'handed—I mean black-handed—in de act; dat he was seen to emerge from Mister White's chicken coop with de aforesaid chicken under his arm; dat he was trailed by de footprints on de sands of time he made from dat chicken coop door to de back door if his chicken; and dat he was caught dere with de aforesaid chicken in his possession; dat dere am no possible defense for pore Rastus under de law. But I say to you, Genmen of de Jury, dere is a defense fo' him. I appeal to you upon de higher, de supreamer, de unwritten law of *dementia Africana*. And if de learned Piece of a Justice should say dat such a law cannot be invoked, I would jus' call yo' attention to de illustrious example of Abraham Lincoln. When Abraham Lincoln was about to issue de famous Emancipation Proclamation freein' all de Negroes in de land from ordinary slavery, de charged him with breakin' de Constitution he had sworn to sustain. But he answered dat he would sustain de Constitution if he had to break it to sustain it. So, Gemmen of dis Jury, when yo' are about to issue your emancipation proclamation freein' pore Rastus from dis criminal servitude and court or anyone else says yo' are doin' violence to de law yo' took oath

to sustain, tell dem in de language of Lincoln dat yo' are goin' to sustain de majesty of de law if yo' have to break it to sustain it. Why dere's no law in de universe but what's broken sometime or udder. Even de law of gravitation and de laws of de planetary system were broken; fo' don't yo' know de Good Book says dat Joshua commanded de sun and de moon to stand still and dey did stand still.

Now I'se goin' to prove to yo' Gemmen of de Jury, dat de nigge' has de right to take de chicken. De chicken and de Negro belong togedder. Dey sustain de most pleasant relations togedder in dis world, and if dere's no chickens in de nigge' heaven den I say to you dere's no heaven fo' de nigge's. Ever since de days of de flood when de ark rested on A-rat and Noah and his sons started de red, white and blue races, and his son Ham started de black race—ever since de days of Ham de egg has gone with it. And jus' as shuah as de Negro is de descendant of Ham, and de chicken is descendant of de egg, and jus' as shuah as ham and eggs go togedder 'mong de white folks so do de nigge' and de chicken go togedder. Why, Gemmen of de Jury,

"Breathes dere de (Negro), with soul so dead

Who never to himself hath said,
This is my own, my native (chicken)?"

Freedom to de Negro without de right to take de chicken would be no freedom at all; for de most natural propensity, de strongest proclivity, de intensest desire, of de Negro is to take de chicken. Abraham Lincoln knew dis when he freed de nigge's, and you know dat freedom was unlimited. So de nigge' has de civil right as well as de natural right to take de chicken.

Now dese am de general principles

upon which dis intelligent jury will surely free dis Negro. But dere are some particular reasons why dey will free him. Why, dis love of de chicken was not only born in pore Rastus but it was bred in him. He was taught to take de chicken at his mudder's knee. One time when little Rastus was only seven years old, de colored minister came to visit de family and he gave Rastus a quarter and told him to buy himself a chicken. But jus' as soon as he minister was gone Rastus' mudder said to him: "Rastus Yo' dun give dat 25-cent piece to yo' mudder and yo' go get dat chicken in de natural way." And I suppose Rastus obeyed de teachin's of his good mudder.

And now we have come to de moonlight night of de 24th of day December when dis awful crime was committed. Pore Rastus had prayed dat de Lord might send him a chicken fo' de Christmas dinner; and yo' may believe me or not, but I will stake my professional reputation and personal reputation on de truthfulness of de story dat, after pore Rastus prayed in vain fo' three days and three nights dat de Lord might send him a chicken, he was about to despair when a ray of light struck him and he heard a small voice say to him: "Rastus, don't yo' know dat de Lord helps dem dat help demselves? Instead of sayin' 'Lord send me a chicken, say 'Lord, send me to a chicken.' " Rastus did, and soon he was on his way dat fateful moonlight night of de 24th of December, happy to think dat he would have a chicken dinner and a Merry Christmas fo' his family. But alas! how different dat pleasant dream from dis awful reality. Dar's pore Rastus in de toils of de law, chained to de ball, broken-hearted

and downcast.. And dere by his side sits his pore widowed wife, cryin' as if her heart would break. And look at de three little, innocent pickaninies, watchfully waiting fo' deir fadder to be free. O how long must dis injustice last; how long is de law's delays?

Gemmen of de Jury, have yo' no hearts? Have yo' no high intelligence and reason to see dat Rastus had no criminal intention in dis case, but dat he was simply moved by dat same dementia dat is de second nature of all us Negroes? Den have de courage of yo' convictions and apply de high, su-

preme, unwritten law of *dementia Africana* and free pore Rastus here and now. Every man on dis jury who says dat Rastus Brown is not guilty rise in his miyht and say aye.

(A unanimous uprising and chorus of ayes by the jury. The court directs the signing of the verdict and tells Rastus he is a free man. Whereupon, Rastus expresses his gratitude thus: "Well, Gemmen, I's shuah glad fo' yo' kindness, and I want yo' all to come to my house some moonlight night, after prayer meeting, fo' a chicken dinner.")