

Vermont General Assembly Government Operations Committee

4 April, 2019

4:00 pm.

Room 11

Hearing

PR.2

**Declaration of rights; eliminating
reference to slavery**



Mark Hughes, Executive Director
Justice For All
Racial Justice Alliance, Coordinator

Recent History

- **Justice For All and Black Lives Matter** Interview the candidates on racial justice issues and the constitutional amendment 6/16 – 8/16
- **The Vermont Democratic Party** places a position to remove slavery from the Constitution on the Platform - 8/16

“The Vermont Democratic Party will work to amend Article I of the Vermont Constitution **to clarify that slavery in any form is absolutely prohibited.**”

- **The Racial Justice Reform Coalition** requests the Senate leadership to urge the 2019 Senate to propose a constitutional amendment, removing slavery. No Response. - 3/18
- The Racial Justice Reform Coalition submits a second request to Senate leadership. Refused - 4/18.
- **The Racial Justice Reform Coalition** requests the House introduce a proposal, urging the 2019 Senate to introduce a constitutional Amendment to remove slavery. Rep Cina sponsors (with 63 other representatives) H.R.25. The Resolution dies in Government Operations Committee. 5/18

More Recent History

- The **Vermont Democratic Party reaffirms its position** on prohibiting slavery by accepting the language in its platform for the second consecutive Platform Convention. - 8/18
- **Justice For All** and the **Racial Justice Alliance** (formerly the Racial Justice Reform Coalition) put forward language for a proposal for the Constitutional Amendment, to removing slavery. - 9/18
- **The Vermont League of Cities and Towns** unanimously passes a resolution, expressing their desire that the constitution be amended to reflect "Slavery and involuntary Servitude in all forms are prohibited"
- **The Senate**, by Senator Ingram (and 23 other Senators) introduces PR.2 a proposal to amend the constitution, removing slavery. - 1/19
- Testimony opens for PR.2 in Senate Government Operations Committee. 1/19
- **The Vermont Episcopal Diocese Council** Unanimously approves the release of a letter to the Senate Government Operations Committee, supporting PR.2. 2/19
- **The Governors Workforce Equity and Diversity Council** unanimously vote in favor of PR. 2. 2/19

Jacobs vs Vermont Supreme Court

Not a decision determining the constitutionality of slavery

The question of slavery was a technicality

1) Jacobs was a Judge on the Supreme Court. He recused himself from the Supreme Court and his two colleagues ruled in the case

“The plaintiffs, as selectmen, and overseers of the poor of the town of Windsor, have declared in two general counts, and have displayed their cause of action in their specification, and rest it upon the implied liability the defendant is under to defray the expenses incurred by the sickness, and for the support of a blind aged person, who they allege is the defendant's slave, purchased by a regular bill of sale. In support of the declaration, this bill of sale is offered, and an exception is taken to its being read as evidence to the jury.

2) The case was about Jacobs defraying health expenses and supporting his now blind and aged former alleged slave. **The case was about money, not the Constitution!**

3) The sales receipt was challenged and the question turned to the “validity or operative force of the sales receipt.

The question must turn upon the validity or operative force of this instrument *within this State*. If the bill of sale could by our constitution operate to bind the woman in slavery when brought by the defendant to inhabit within this State, then it ought to be admitted in evidence; and the law will raise a liability in the slave-holder to maintain her through all the vicissitudes of life; but if otherwise it is void.” Judge Tyler then proceeded to say that the Vermont constitution prohibited slavery, and that the bill of sale, though good elsewhere, could not hold in Vermont. Since the bill of sale must be regarded as void in Vermont he ruled against admitting it in evidence, and the chief justice concurred.

4) Judge Tyler said that the Vermont constitution prohibited Slavery and **deemed the sales receipt inadmissible.**

5) The claim was withdrawn with court costs assessed to the plaintiff

As the decision on this point made it clear that the plaintiffs could not show a legal ownership of the woman and as without such ownership being shown their case must fail, the plaintiffs seem, from the court records, to have withdrawn and permitted the court to order a nonsuit. Costs were taxed against them in the sum of fourteen dollars and seventy-five cents and execution was issued August 30.

6) The question in this case was NEVER to rule on “does the constitution prohibit slavery”

Recommendations

- Focus foundation of “**addressing systemic racism in our state laws and institutions**”
- Remove “or bound by law for the payment of debts, damages, fines, costs, or the like.”
 - This language supports the criminalization of poverty
 - 13 V.S.A. § 7180 Remedies for failure to pay fines, costs, surcharges, and penalties: **Incarceration**
 - Relegation from slavery to servitude, which is modern day trafficking
 - With wealth of whites being 13 times that of blacks
- Replace the language of “Freemen” and “Freewomen” in Chapter II. §42
- Immediately address constitutional amendment general referendum language
 - 17 V.S.A. Ch. §32 - Remove 16 instances of “Freemen and Freewomen”
 - Senate Rule 84
- Initiate a Joint Resolution
 - Application under US constitution
 - Rescinding and replace the 13th Amendment
 - Slavery is prohibited, without exception in the United States

Recommendations

1. Adopt the language we originally offered

“Article 1. [All persons born free; their natural rights; slavery prohibited]

“That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore no person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave or apprentice, ~~after arriving to the age of twenty one years, unless bound by the person’s own consent, after arriving to such age, or bound by law for the payment of debts, damages, fines, costs, or the like.~~”

~~“VOTER QUALIFICATIONS OF FREEMEN AND FREEWOMEN OATH”~~

42. [VOTER’S QUALIFICATIONS AND OATH]

Recommendations

Amend 3 V.S.A § 2311 - Add Population Level Quality of Life Outcome

Recommended: *Black Vermonters are proportionately represented and treated fairly .*