

IN THE UNITED STATES CIRCUIT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK,
ONTARIO COUNTY, NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CASE NO. 1873-32 CR

SUSAN B. ANTHONY,

Defendant.

Mock Trial Script

In 1872, Susan B. Anthony registered to vote and voted in the Presidential election between Ulysses S. Grant and Horace Greeley at her local polling place in Rochester, New York. After voting she was arrested and charged with *Knowingly Illegally Voting*. She argued that all citizens' rights to Due Process under the U.S. Constitution gave her and other women the right to vote.

She was convicted and fined \$100. Her response to the Judge was: "I shall never pay a dollar of your unjust penalty. And I shall earnestly and persistently continue to urge all women to the practical recognition of the old revolutionary maxim: Resistance to tyranny is obedience to God." She never paid the fine.

Susan B. Anthony died in 1906. It was not until 1920 that the 19th Amendment to the U.S. Constitution passed, guaranteeing all women the right to vote.

U.S. Magistrate Judge Celeste F. Bremer, J.D., Ed.D.
123 E. Walnut Street, Room 435
Des Moines, Iowa 50309

Assistance Provided By:
Emma Schulte, Catherine Chiodo, Denisha Renovales and Allison Adams

Note:
This is not the actual trial transcript. This mock trial is designed to generate discussion about advancing women's voting rights, how voting rights are granted and should be enforced.

In the fall of 1872, a group of Suffragettes sought to vote in the Presidential election in upstate New York. These women were led by Susan B. Anthony, an internationally respected figure who led the women's voting rights movement in the United States, Wyoming was the only state at the time of 1872 that allowed women the right to vote in a Presidential election, New York State did not. They registered to vote in New York State and submitted their ballots at their local polling place. Anthony argued the 14th Amendment to the U.S. Constitution gave all citizens the right to vote. Afterwards, Anthony was arrested and charged with the crime of *Knowingly Illegally Voting*.

At trial, Miss Anthony did not testify on her own behalf because women were not allowed to testify in criminal trials. She did manage to give a speech at the end of her trial against the Court's wishes. After all the testimony, the Judge entered a Directed Verdict of Guilty which meant that the jury did not get to deliberate. For this Mock Trial, we changed that ruling. The jury will consider the facts and the law, deliberate, and return a verdict. The Judge imposed a \$100 fine, though Miss Anthony never paid it.

In 1920 all U.S. women gained the right to vote with the passage of the 19th Amendment to the U.S. Constitution. This case asks you to reflect on Susan B. Anthony's role in advancing women's rights, how voting rights are granted, and how voting rights should be enforced.

OPENING COURT AND SEATING JURY

CLERK OF COURT: [Hits gavel 3 times] All rise. The Circuit Court for Ontario County is now in session for the case of *United States v. Anthony*. The Honorable Justice Hunt of the Supreme Court of the United States, presiding.

JUSTICE HUNT: Before the jury is seated, the Clerk will give the Oath.

CLERK OF COURT: Members of the jury, please raise your right hands: Do you swear or affirm that you will render a true verdict according to the law as given by the Court, and the evidence submitted? If so, answer "I do."

JURORS: I do.

JUSTICE HUNT: Please be seated. We will now take opening statements in the case of *United States v. Susan B. Anthony*. Miss Anthony is charged with the crime of illegally voting under federal Voting Enforcement Act of 1870, and New York State law. After opening statements, witness testimony, and closing arguments, I will give the jury instructions as to the law. You will apply the law to the facts you find, based on the evidence, and reach a verdict.

JUSTICE HUNT: Plaintiff's attorney will now give the opening statement.

Plaintiff's Attorney, U.S. Attorney RICHARD CROWLEY: May it please the Court, opposing counsel. Members of the Jury, we are here today because one woman decided to break the law. She decided the law of the United States did not apply to her. That woman's name is Susan B. Anthony, and she is sitting right over there [points].

Members of the jury, today you will hear testimony about Miss Anthony breaking the law. You will hear how she knowingly and illegally registered to vote in the State of New York. You will hear testimony that Miss Anthony voted in the Presidential election on November 5, 1872 – which she does not deny. This action was illegal. I will ask you to return a verdict finding Miss Anthony guilty of the crime of knowingly, wrongfully, and illegally voting.

JUSTICE HUNT: Thank you. We will now hear from Defense counsel.

Defendant's Attorney, HENRY SELDEN: My client, Susan B. Anthony, is an educator, a nationally renowned lecturer, and a citizen of the United States. Miss Anthony was born in Adams, Massachusetts. She has lived, worked, and gone to school in the United States. Miss Anthony is an active member of her church and pays taxes. She has never committed a crime.

The Fourteenth Amendment holds: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." My client was completely within her right to vote on November 5, 1872, because she has that right as a United States citizen. She was registered to vote and given a ballot by Election Officials. She was not knowingly breaking the law.

Just like members of this jury, she is a citizen of the United States and deserves equal protection under the law. At the close of this trial, I will ask members of the jury to uphold the Constitution and find Susan B. Anthony not guilty.

JUSTICE HUNT: Government, call your first witness.

DIRECT EXAMINATION of BEVERLY JONES

Attorney RICHARD CROWLEY: The Government calls Election Inspector Beverly Jones to the stand.

CLERK: Raise your right hand. Is this testimony you are about to give the truth?

BEVERLY JONES: Yes.

Attorney RICHARD CROWLEY: Please state your name for the record.

BEVERLY JONES: My name is Beverly Jones.

Attorney RICHARD CROWLEY: Mr. Jones, what is your connection to this trial today?

BEVERLY JONES: I was an Election Inspector on the New York Board of Voter Registration. I registered Miss Anthony to vote in the Presidential election of 1872.

Attorney RICHARD CROWLEY: When did you register Miss Anthony to vote?

BEVERLY JONES: On November 1, 1872, she and a few other ladies came into the barber shop where Edwin Marsh and I were registering voters.

Attorney RICHARD CROWLEY: Had you met Miss Anthony before?

BEVERLY JONES: No, I had not.

Attorney RICHARD CROWLEY: Did Miss Anthony come into the barber shop to see you?

BEVERLY JONES: She demanded that Mr. Marsh and I register her and the other ladies to vote in the upcoming election. She was friendly but stubborn and willful. She and the other women weren't going to take "no" for an answer. So, I registered Susan B. Anthony and the other women to vote.

Attorney RICHARD CROWLEY: Why did you register Miss Anthony and the other women?

BEVERLY JONES: Well, I didn't think it was legal, but Miss Anthony showed us a letter from a Missouri lawyer. It said that under the 14th Amendment women could vote, and if we didn't register these citizens, they would sue us.

Attorney RICHARD CROWLEY: [Defendant's Exhibit D] Is this the letter Miss Anthony showed, from the Missouri Lawyer threatening to sue you and Mr. Marsh?

[Pass Defendants Exhibit D to the Jury].

BEVERLY JONES: Yes.

Attorney RICHARD CROWLEY: The Court admitted this Exhibit into evidence before trial, and I ask that the jury view it. [Pass Defendant's Exhibit D to jury].

As an Election Inspector, you know that in the State of New York, women do not have the right to vote?

BEVERLY JONES: Yes, I knew that then, and I still know it now, but Miss Anthony scared me.

Attorney RICHARD CROWLEY: What were you afraid of?

BEVERLY JONES: Being sued. She knew she was asking me to do something illegal, and I took her letter as a threat.

Attorney RICHARD CROWLEY: Did you register other women to vote that day?

BEVERLY JONES: Yes, about 50 more women came in to register after I registered Miss Anthony. It was intimidating to be around so many women.

Attorney RICHARD CROWLEY: What happened to their voter registrations?

BEVERLY JONES: Well, some of the women voted in the Presidential election on November 5th. Then on November 18th, I was arrested! *You* charged me with conspiring with Miss Anthony to break the election laws!

Attorney RICHARD CROWLEY: Was anyone else arrested?

BEVERLY JONES: Yes. The other Election Inspector, Edwin Marsh, was charged with Conspiracy and arrested too! It's a sad day when you get arrested for doing your job! Miss Anthony and some of the women were arrested for illegally voting. Miss Anthony was bragging that if she got arrested, she was going to stay in jail, just like the Suffragettes in England.

Attorney RICHARD CROWLEY: Thank you, Mr. Jones. No further questions, Your Honor.

CROSS-EXAMINATION of BEVERLY JONES

JUSTICE HUNT: Mr. Selden, do you have any questions for Mr. Jones?

Attorney HENRY SELDEN: Yes, Your Honor. Mr. Jones, you were arrested and charged with allowing illegal voter registration. When is your trial?

BEVERLY JONES: It is scheduled for later next month. Mr. Crowley is the prosecutor in my case, too.

Attorney HENRY SELDEN: Will it help your case if you give testimony against Miss Anthony?

BEVERLY JONES: Well, I'm just trying to say how she intimidated me and then I'm hoping Mr. Crowley will drop the charges against me.

Attorney HENRY SELDEN: No further questions, Your Honor.

JUSTICE HUNT: Mr. Jones, you may return to your seat. Does the Government have another witness?

Attorney RICHARD CROWLEY: No, Your Honor.

DIRECT EXAMINATION of SYLVESTER LEWIS

Attorney RICHARD CROWLEY: The Government calls poll watcher Sylvester Lewis to the stand.

CLERK: Raise your right hand. Is this testimony you are about to give the truth?

SYLVESTER LEWIS: Yes.

Attorney RICHARD CROWLEY: Will you please state your name for the record?

SYLVESTER LEWIS: My name is Sylvester Lewis.

Attorney RICHARD CROWLEY: Mr. Lewis, what is your connection to the defendant, Susan B. Anthony?

SYLVESTER LEWIS: I know Miss Anthony because I watched her vote in the Presidential election of November 5th, 1872. The men running for President were Ulysses S. Grant and Horace Greely, their pictures are in Government Exhibit 1. [Governments Exhibit 1].

I saw her put a ballot in a ballot box, like in Governments Exhibit 2. [Governments Exhibit 2]

[Pass both Governments Exhibits 1 and 2 to the Jury]

Attorney RICHARD CROWLEY: How were you able to watch Miss Anthony vote?

SYLVESTER LEWIS: I was an official Poll Watcher for the First District of the 8th Ward of Rochester, New York. I saw her walk into the polling place, [Plaintiffs Exhibit 3, please pass to jury] and cast her ballot. She said she had already registered to vote when I stopped and questioned her.

Attorney RICHARD CROWLEY: What was your job as an official Poll Watcher?

SYLVESTER LEWIS: I watched the ballot boxes, the voters and made sure everyone who voted followed the rules. I made sure no funny business happened—no fraud, illegal voting, and no interfering with the voting process.

Attorney RICHARD CROWLEY: Is it legal for women to vote in Presidential elections in New York state?

SYLVESTER LEWIS: No, it is not.

Attorney RICHARD CROWLEY: After Miss Anthony placed her ballot in the box, what did you do?

SYLVESTER LEWIS: I filed a challenge to her vote based on her violation of the Voting Enforcement Act of 1870.

Attorney RICHARD CROWLEY: Why did you do that?

SYLVESTER LEWIS: Because women can't vote, she knew that, and Miss Anthony's voting violated the Voting Enforcement Act of 1870.

Attorney RICHARD CROWLEY: No further questions.

CROSS-EXAMINATION of SYLVESTER LEWIS

JUSTICE HUNT: Mr. Selden, do you have any questions for Mr. Lewis?

Attorney HENRY SELDEN: Yes, your Honor. Mr. Lewis, is it a part of your training to know the Constitution of the United States?

SYLVESTER LEWIS: Yes, it is.

Attorney HENRY SELDEN: Are you familiar with the Constitution of the United States?

SYLVESTER LEWIS: Yes.

Attorney HENRY SELDEN: Including the 14th Amendment?

SYLVESTER LEWIS: Yes, I am.

Attorney HENRY SELDEN: [Defendants Exhibit A] Mr. Lewis, is this the text of the 14th Amendment?

SYLVESTER LEWIS: Yes. [Pass Defendants Exhibit A to the Jury].

Attorney HENRY SELDEN: Your Honor, we offer into evidence Defendant’s Exhibit A, the 14th Amendment to the Constitution of the United States. Mr. Lewis, will you read Exhibit A?

SYLVESTER LEWIS: All persons born or naturalized in the United States and subject to jurisdiction thereof are citizens of the United States and of the state wherein they reside. **No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or, property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

Attorney HENRY SELDEN: Thank you, Mr. Lewis. The 14th Amendment says, “any person” and “all persons,” have all the privileges of citizenship correct?

SYLVESTER LEWIS: Yes, it does.

Attorney HENRY SELDEN: Are women “people?” Do “people” vote?

SYLVESTER LEWIS: Well, yes –

Attorney HENRY SELDEN: Thank you, Mr. Lewis. No further questions.

JUSTICE HUNT: Mr. Lewis, you may return to your seat. Call your next witness.

DIRECT EXAMINATION of RHONDA DeGARMO¹

Attorney HENRY SELDEN: Defense calls Rhonda DeGarmo.

CLERK: Raise your right hand. Is this testimony you are about to give the truth?

RHONDA DeGARMO: Yes.

CLERK: You may take the stand.

Attorney HENRY SELDEN: Please state your name for the record.

RHONDA DeGARMO: My name is Rhonda DeGarmo.

Attorney HENRY SELDEN: What is your connection to the case before us today?

RHONDA DeGARMO: Well, I went with Miss Anthony to register to vote, and to cast our ballots.

Attorney HENRY SELDEN: How do you know Miss Anthony?

RHONDA DeGARMO: We met at a suffrage convention in Rochester, New York some years ago. We are both women’s rights and anti-slavery advocates. We believe in our rights as U.S. citizens.

Attorney HENRY SELDEN: When you registered to vote with Miss Anthony on November 1st, did you know it was against the law to register to vote?

¹ In this Mock Trial, we are changing the rules that were in effect in 1872 and allowing women to testify. At the time of Miss Anthony’s trial, women were not allowed to testify in court, even on their own behalf.

RHONDA DeGARMO: Well, we knew that the law hadn't been challenged. But the 14th Amendment, as Miss Anthony always says, includes *all* citizens of the United States. But the Election Inspector registered us, so why wouldn't we be able to vote on November 5th? So, we did.

Attorney HENRY SELDEN: Thank you, Mrs. DeGarmo. No further questions.

JUSTICE HUNT: Mr. Crowley, do you have any questions for Mrs. DeGarmo?

Attorney RICHARD CROWLEY: Yes, Your Honor.

CROSS-EXAMINATION of RHONDA DeGARMO

Attorney RICHARD CROWLEY: Mrs. DeGarmo, how old are you?

RHONDA DeGARMO: I am 73 years old.

Attorney RICHARD CROWLEY: Why was November 5th, 1872, your first time voting in a Presidential election?

RHONDA DeGARMO: I have been discouraged from voting in the past, but then Miss Anthony explained to the Election Inspectors why all women have the right to vote. So, we registered and voted.

Attorney RICHARD CROWLEY: What is the suffrage movement that you and Miss Anthony fight for?

RHONDA DeGARMO: The right for women to vote.

Attorney RICHARD CROWLEY: You are a suffragette because you know that women do not have the right to vote, and that it is illegal for them to vote?

RHONDA DeGARMO: I think that the 14th Amendment guarantees my right to vote. And the Election Inspectors registered us to vote, so my vote on November 5th was not illegal.

Attorney RICHARD CROWLEY: No further questions.

JUSTICE HUNT: Mrs. DeGarmo, you may return to your seat. Does Defense have another witness?

Attorney HENRY SELDEN: Yes, Your Honor.

DIRECT EXAMINATION of SUSAN B. ANTHONY

Attorney HENRY SELDEN: Defense calls Susan B. Anthony.

CLERK: Raise your right hand. Is this testimony you are about to give the truth?

SUSAN B. ANTHONY: Yes.

CLERK: You may take the stand.

Attorney HENRY SELDEN: Please state your name for the record.

SUSAN B. ANTHONY: My name is Susan B. Anthony.

Attorney HENRY SELDEN: Were you arrested after you voted on November 5, 1872?

SUSAN B. ANTHONY: Yes, but I was lawfully registered to vote.

Attorney HENRY SELDEN: Where did you register to vote?

SUSAN B. ANTHONY: I went to the barber shop in Rochester, New York, with two of my sisters and some friends. The Election Inspectors considered our request to register based upon our 14th Amendment rights as citizens, and then we all registered to vote.

Attorney HENRY SELDEN: Miss Anthony, is this your signature on the Voter's Certificate of Registration? Please enter Defendant's Exhibit E into evidence. [Pass around Defendant's Exhibit E to the jury]

SUSAN B. ANTHONY: Yes, it is.

Attorney HENRY SELDEN: Is it true that you threatened to sue the election officials?

SUSAN B. ANTHONY: I wouldn't say threatened, but I did tell them I would bring a cause of action, based upon a legal opinion. I showed them the letter from the lawyer and read them the 14th Amendment.

It would have been unfair, and I believe, illegal for the election officials to deny me or other women, the right to register to vote. I was registered to vote, and then I voted, like other citizens do.

Attorney HENRY SELDEN: What were your reasons for voting?

SUSAN B. ANTHONY: The 14th Amendment gives the privilege of voting to each citizen of the United States, and I am a citizen of this nation. The 14th Amendment doesn't say "all men," it says, "all persons." I vote for the same reason you do. I want the ability to choose my representatives. A vote controls so many decisions in our United States, and as a well-informed citizen, I believe it is my duty and my right to participate. The pamphlet, [Defendants Exhibit C] from the National American Woman Suffrage Association helps to explain my point of view.

[Pass around Defendant's Exhibit C to the Jury]²

Attorney HENRY SELDEN: Did you believe you were breaking the law when you voted?

SUSAN B. ANTHONY: No. I saw myself as following the law. I am a citizen.

Attorney HENRY SELDEN: Were you aware of the federal Voter Enforcement Act of 1870?

SUSAN B. ANTHONY: At the time I voted, no. And as my lawyer's opinion points out, the Constitution of the United States is superior to any other state or local law.

Attorney HENRY SELDEN: Thank you. No further questions, Your Honor.

JUSTICE HUNT: Mr. Crowley?

² Susan B. Anthony died in 1906, and this pamphlet was printed in 1918. However, it helps explain Miss Anthony's viewpoint on why voting rights were and are so important.

CROSS-EXAMINATION of SUSAN B. ANTHONY

Attorney RICHARD CROWLEY: Miss Anthony, you are an educated and well-read woman. Are you familiar with the Constitution of the United States?

SUSAN B. ANTHONY: I am.

Attorney RICHARD CROWLEY: And are you familiar with the Constitution of the State of New York?

SUSAN B. ANTHONY: Yes.

Attorney RICHARD CROWLEY: Do either of these Constitutions explicitly say that women have the right to vote?

SUSAN B. ANTHONY: The Constitutions don't say anything explicitly about women's right to vote, or not to vote. They talk about the rights of citizens. I am a citizen of the United States and the State of New York.

Attorney RICHARD CROWLEY: That wasn't my question. My question is: are there words in either Constitution that grants women the right to vote?

SUSAN B. ANTHONY: Women are implicitly granted the right to vote.

Attorney RICHARD CROWLEY: But where do they say the words, "women can vote," Miss Anthony?

SUSAN B. ANTHONY: What is the difference between women and people? Women are people. When our 14th Amendment says "All persons..."

Attorney RICHARD CROWLEY: Before November 5th, 1872, had you ever seen a woman vote in a Presidential election?

SUSAN B. ANTHONY: No.

Attorney RICHARD CROWLEY: Do most women in the United States vote in each election?

SUSAN B. ANTHONY: In some states. They are certainly entitled to under the United States Constitution.

Attorney RICHARD CROWLEY: No further questions Your Honor.

JUSTICE HUNT: Miss Anthony, you may return to your seat. Does the Defense have more witnesses?

Attorney HENRY SELDEN: No, Your Honor. The Defense rests.