

THE NEGRO AND THE LAW

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"MINK JONES, stand up!" The police judge peered over his "specks" at a loose-lung, highly-colored young negro who wobbled forward.

"Good mawnin', judge y'onner."

"Good morning, Mink; I'm sorry to see you in trouble."

"Yas sah, judge; niggers sho is bawn to trouble."

Judge Warren re-read the affidavit that lay before him:

"Mink you are charged with forgery."

Mink grinned: "Yas sah, dat 's what I hear 'em say, judge y'onner." Mink would not have recognized a forgery if he had seen it marching down the middle of Washington street with a bell hung round its neck. But his coconut face split open in a trustful smile.

"How about it, Mink? Guilty, or not guilty?"

"I done it, judge y'onner," with that same sweet smile of the chipper cherubim.

"Do you know that forgery means seven years in the penitentiary?"

Mink turned ashy: "Seven years? Penitentiary? Lawd A'mighty, judge y'onner, I 'lowed 'I would be 'bout a dollar and costs!"

"Do you want to withdraw your plea and get a lawyer?"

"What 's dat, judge? No sah, I don't need no lawyer; you kin do what ever you think is right."

That put it squarely up to His Honor, and Mink stared seven years straight in the face. Under the statutes in such case made and provided, this judge had no discretion; the charge being a felony, his jurisdiction extended no further than to commit Mink to jail until the grand jury could indict him. It was so nominated in the code; the law allowed it, but the court did not award it. Judge Warren knew that Mink had n't the faintest idea that his retail financiering constituted a serious offense. So, he called for Mink's employer—a newcomer in the South, who did not understand his brother in black.

Mr. Sanders, as a business man, stood up so rigidly straight that he leaned over backward; and Mr. Sanders felt justly outraged. Mink had been his trusted porter who went to the bank every Saturday morning and got money to pay off the mill hands. It was no part of Mink's job to investigate those little scraps of paper that he sometimes found attached to the pay-roll—" \$1.00, extra labor," "75c, ice."

MINK had been to school and learned to scribble a bit himself; by attaching a few extra labor items to each pay-roll, he put some unearned increment into his pocket. But Mr. Sanders did n't approve of his porter's enterprise. That's why he felt so outraged, and wanted Mink sent up as an example: to preserve discipline in his business; owed it to the community, etcetera.

The judge listened to Mr. Sanders; then, announced that he would take the case under advisement, and quietly filed Mink away in a pigeon-hole at the jail until Mr. Sanders cooled off.

After a few days, Judge Warren sent for the boss again, persuaded him to withdraw the charge of forgery, and to substitute an affidavit for petty larceny, to which Mink could plead guilty and get a sentence of thirty days at hard labor on the public streets. If this ignorant negro had been a white man the judge would have assumed that he understood what he was doing when he entered forgeries on a pay-roll, and would have committed him to jail to take his chances before a trial jury.

It has been frequently asserted that in the South there are two laws, one for the white man and one for the black. To some extent, this statement is true. The wise father that has two sons of widely different capacities and temperaments, does not measure them by the same yard-stick, nor force them into the same pint cup. There is a clean-cut difference between the white man and the black in his attitude toward the law; and a more subtle distinction in the attitude of the law toward each of them. Written statutes draw no line of demarcation; the variance lies in their practical application to each individual offender.

Wherever the white man makes his home, there also he makes the law of

the land. The dominating Anglo-Saxon will have it no other way. All machinery for its enforcement is in his hands, and the responsibility rests with him. Wherever his rules apply in part to mixed races—some of whom, perhaps, he deems to be inferior to himself—the white man holds them to varying degrees of accountability. For instance:

The Shillook negroes—a million naked blacks—live in Kordofan. No Shillook Moses ever went up into Sinai; out of the thunders of heaven, no Mosaic law was handed down to them. They have no conception of an eye for an eye. If a Shillook kills another, their tribal tradition of justice is that the slayer shall pay blood indemnity to the family of the slain. A Shillook views the wrongful killing of a man precisely as a modern jury looks upon the untimely decease of a mule at the front end of a locomotive. In the latter case, the railroad company must compensate the owner. In Shillook comprehension, it would be barbarous and unnecessary to destroy the life of one man merely because he had destroyed the life of another. "No," says the savage; "make him give much goats and cattle" to the bereaved family—a ruling that is enthusiastically popular in a flock of weeping widows.

But Kordofan is governed by the British, and they have no such common law, nor any such statute from the time of King Alfred to his present Gracious Majesty. How does the British Bimbashi get around that? By tact and discretion. His authority is elastic; he stretches it in places, tightens it in

places and fits it neatly to the Shillook shape. This Bimbashi who administers law in the Sudan recognizes racial dissimilarities between the Nyam-Nyam, who is a cannibal pagan, and the Jaadian Arab, as devout a Mussulman as ever swore by the beard of the Prophet. Then, there's Tommy Atkins to consider; and Tommy's judicial dogmas disagree with both the others. If Tommy kills a comrade, he is shot; it's three rounds blank for him, and all the other Tommies approve. That's British discipline, and the Empire must be built. But the Shillook is not put to death, although the stringent letter of the law may remain unchanged. In the Sudan there's one law for the black, one law for the brown and one for the white man. Which simply means that military and judicial officers construe their regulations, so far as they can, in accordance with the habits and traditions of the people to whom those laws are applied.



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THE thoughtful southerner observing conditions in middle Africa finds amusement and interest in comparing the methods of the British Bimbashi with those employed by planters in the Mississippi Delta. Along the far reaches of the upper White Nile, the Shillook, Dirka, and Nyam-Nyam trot to El Bimb, with all their troubles. They squat around in a naked black circle and pour out their tales of woe. This lone white man—like a solitary grain of rice in a barrel of tar—hears the complaint of both sides, tells them what to do, and they do it. Furthermore, they do it cheerfully. They may refuse to obey their tribal chiefs; they may scoff at the local *mudir*; but that white man's word is final. Black men feel that the white Bimbashi is wise, and has no selfish interest in their affairs. This white man can not be bought, while their native judges, from time out of mind, have sold decisions to the highest bidder, and have incurred general distrust.

Along the lower stretches of the Mississippi River the plantation negro does exactly the same thing, and for the same reason. If he should have a rookus with his wife, a quarrel with his neighbor, or if the constable arrests his son, he goes straight to the boss.

On many plantations it is tacitly understood that no tenant shall invoke the