

## *Mississippi Black Codes, 1865*

### Introduction

Following the assassination of President Abraham Lincoln a few weeks before the Civil War, Andrew Johnson assumed the Presidency just in time to oversee the program of Reconstruction. Johnson, a former slaveholder from Tennessee, immediately returned control of the southern states to the Southern Democrats, the same men who seceded from the United States in preparation for war and subsequently controlled the Confederacy during the War. Most people, including Congressional Republicans, thought the political leadership of the Confederacy would face consequences for precipitating a war against the United States, but Johnson reversed any attempts to bring charges against the Confederates or even rebuild the southern states with new leadership. Instead, even before the southern states were admitted back into the Union, Johnson turned state governance over to the same men in office before the war. In 1866, Republicans assumed control of Reconstruction, leading to a brief period when the Southern Democrats were not in complete control. It was too late, however, as the laws and practices put in place between Spring 1865 and Fall 1866 were entrenched in the southern states.

As a result, the Southern Democrats immediately thwarted any sense of freedom for the recently emancipated people living in the South. The one-two punch of the Black Codes and Sharecropping Contracts allowed white southerners to criminalize just about every aspect of black life while also ensuring Freedpeople had no choice but to work for their former employers. The Black Codes did not end with Reconstruction in 1877. They were relabeled as Jim Crow laws which enforced segregation and racist law enforcement policies into the 1960s and 1970s.

As always, Mississippi led the way in racist legislation, enacting the Mississippi Black Codes in June 1865, just a month after the end of the war. Every other southern state followed, and every one used the Mississippi model for their own Black Codes. The Mississippi Vagrancy Law, in particular, made it into the Black Codes in every state because it allowed black people to be arrested for just about anything. Below are a few examples from the Mississippi Black Codes. Please take note of how often the “former owner” was empowered to enforce the law.

Take a minute while you are reading and consider what it would be like to live under these laws. It’s hard to imagine, but try. Do you think you could avoid being arrested at some point<sup>1</sup>?

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<sup>1</sup> Full text of the [\*Mississippi Black Codes\*](#) is believed to be in the public domain.

## Primary Source

### Apprentice Law

Section 1. *Be it enacted by the legislature of the state of Mississippi*, that it shall be the duty of all sheriffs, justices of the peace, and other civil officers of the several counties in this state to report to the Probate courts <sup>2</sup>of their respective counties semiannually, at the January and July terms of said courts, all freedmen, free Negroes, and mulattoes under the age of eighteen within their respective counties, beats, or districts who are orphans, or whose parent or parents have not the means, or who refuse to provide for and support said minors; and thereupon it shall be the duty of said Probate Court to order the clerk of said court to apprentice said minors to some competent and suitable person, on such terms as the court may direct, having a particular care to the interest of said minors:

*Provided*, that the former owner of said minors shall have the preference when, in the opinion of the court, he or she shall be a Suitable person for that purpose.

Section 2. *Be it further enacted*, that the said court shall be fully satisfied that the person or persons to whom said minor shall be apprenticed shall be a suitable person to have the charge and care of said minor and fully to protect the interest of said minor. The said court shall require the said master or mistress to execute bond and security, payable to the state of Mississippi, conditioned that he or she shall furnish said minor with sufficient food and clothing; to treat said minor humanely; furnish medical attention in case of sickness; teach or cause to be taught him or her to read and write, if under fifteen years old; and will conform to any law that may be hereafter passed for the regulation of the duties and relation of master and apprentice<sup>3</sup>:

*Provided*, that said apprentice shall be bound by indenture, in case of males until they are twenty-one years old, and in case of females until they are eighteen years old...

Section 5. *Be it further enacted*, that if any person entice away any apprentice from his or her master or mistress, or shall knowingly employ an apprentice, or furnish him or her food or clothing, without the written consent of his or her master or mistress, or shall sell or give said apprentice ardent spirits, without such consent, said person so offending shall be deemed guilty of a high misdemeanor, and shall, on conviction thereof before the county court, be punished as provided for the punishment of persons enticing from their employer hired freedmen, free Negroes, or mulattoes.

Section 6. *Be it further enacted*, that it shall be the duty of all civil officers of their respective counties to report any minors within their respective counties to said Probate Court who are subject to be apprenticed under the provisions of this act, from time to time, as the facts may come to their knowledge; and it shall be the duty of said court, from time to time, as said minors

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<sup>2</sup>Probate courts handle taxes, fines, wills and inheritance, property ownership, assets, etc.

<sup>3</sup>Please keep in mind that law enforcement officers and courts were quite lax in enforcement of this law.

shall be reported to them or otherwise come to their knowledge, to apprentice said minors as hereinbefore provided....

Section 10. *Be it further enacted*, that in all cases where the age of the freedman, free Negro, or mulatto cannot be ascertained by record testimony, the judge of the county court shall fix the age.

#### Vagrancy Law

Section 1. *Be it enacted by the legislature of the state of Mississippi*, that all rogues and vagabonds, idle and dissipated persons, beggars, jugglers, or persons practising unlawful games or plays,<sup>4</sup> runaways, common drunkards, common nightwalkers, pilferers, lewd, wanton, or lascivious persons, in speech or behavior, common railers<sup>5</sup> and brawlers, persons who neglect their calling or employment, misspend what they earn, or do not provide for the support of themselves or their families or dependents, and all other idle and disorderly persons, including all who neglect all lawful business, or habitually misspend their time by frequenting houses of illfame, gaming houses, or tippling shops<sup>6</sup>, shall be deemed and considered vagrants under the provisions of this act; and, on conviction thereof shall be fined not exceeding \$100, with all accruing costs, and be imprisoned at the discretion of the court not exceeding ten days.

Section 2. *Be it further enacted*, that all freedmen, free Negroes, and mulattoes in this state over the age of eighteen years found on the second Monday in January 1966, or thereafter, with no lawful employment or business, or found unlawfully assembling themselves together either in the day or nighttime, and all white persons so assembling with freedmen, free Negroes, or mulattoes, or usually associating with freedmen, free Negroes, or mulattoes on terms of equality, or living in adultery or fornication with a freedwoman, free Negro, or mulatto, shall be deemed vagrants; and, on conviction thereof, shall be fined in the sum of not exceeding, in the case of a freedman, free Negro, or mulatto, \$150, and a white man, \$200, and imprisoned at the discretion of the court, the free Negro not exceeding ten days, and the white man not exceeding six months...

Section 5. *Be it further enacted*, that all fines and forfeitures collected under the provisions of this act shall be paid into the county treasury for general county purposes; and in case any freedman, free Negro, or mulatto shall fail for five days after the imposition of any fine or forfeiture upon him or her for violation of any of the provisions of this act to pay the same, that it shall be, and is hereby made, the duty of the sheriff of the proper county to hire out said freedman, free Negro, or mulatto to any person who will, for the shortest period of service, pay said fine or forfeiture and all costs<sup>7</sup>:

*Provided*, a preference shall be given to the employer, if there be one, in which case the employer shall be entitled to deduct and retain the amount so paid from the wages of such

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<sup>4</sup> No juggling. No "unlawful games." No unauthorized theater.

<sup>5</sup> A railer in this context is someone who complains excessively. So, no complaining in public.

<sup>6</sup> Liquor store/bar – pretty much the same thing during this time.

<sup>7</sup> This did not happen.

freedman, free Negro, or mulatto then due or to become due; and in case such freedman, free Negro, or mulatto cannot be hired out he or she may be dealt with as a pauper.

Section 6. *Be it further enacted*, that...in order to secure a support for indigent freedmen, free Negroes, and mulattoes, it shall be lawful, and it is hereby made the duty of the boards of county police of each county in this state, to levy a poll or capitation tax on each and every freedman, free Negro, or mulatto, between the ages of eighteen and sixty years, not to exceed the sum of (\$10-\$100) annually, to each person so taxed, which tax, when collected, shall be paid into the county treasurer's hands and constitute a fund to be called the Freedman's Pauper Fund, which shall be applied by the commissioners of the poor for the maintenance of the poor of the freedmen, free Negroes<sup>8</sup>. and mulattoes of this state, under such regulations as may be established by the boards of county police, in the respective counties of this state.

Section 7. *Be it further enacted*, that if any freedman, free Negro, or mulatto shall fail or refuse to pay any tax levied according to the provisions of the 6th Section of this act, it shall be prima facie evidence of vagrancy, and it shall be the duty of the sheriff to arrest such freedman, free Negro, or mulatto, or such person refusing or neglecting to pay such tax, and proceed at once to hire, for the shortest time, such delinquent taxpayer to anyone who will pay the said tax, with accruing costs, giving preference to the employer, if there be one.

Section 8. *Be it further enacted*, that any person feeling himself or herself aggrieved by the judgment of any justice of the peace, mayor, or alderman in cases arising under this act may, within five days, appeal to the next term of the county court of the proper county, upon giving bond and security in a sum not less than \$25 nor more than \$150, conditioned to appear and prosecute said appeal, and abide by the judgment of the county court, and said appeal shall be tried *de novo* in the county court, and the decision of said court shall be final.

### Civil Rights of Freedmen

Section 1. *Be it enacted by the legislature of the state of Mississippi*, that all freedmen, free Negroes, and mulattoes may sue and be sued, implead and be impleaded in all the courts of law and equity of this state, and may acquire personal property and choses in action, by descent or purchase, and may dispose of the same in the same manner and to the same extent that white persons may:

*Provided*, that the provisions of this section shall not be construed as to allow any freedman, free Negro, or mulatto to rent or lease any lands or tenements, except in incorporated towns or cities, in which places the corporate authorities shall control the same.

Section 2. *Be it further enacted*, that all freedmen, free Negroes, and mulattoes may intermarry with each other, in the same manner and under the same regulations that are provided by law for white persons:

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<sup>8</sup> In other words, Freedpeople were required to pay an additional tax to help Freedpeople. Please keep in mind that Freedpeople left slavery with nothing, certainly not money.

*Provided*, that the clerk of probate shall keep separate records of the same.

Section 3. *Be it further enacted*, that all freedmen, free Negroes, and mulattoes who do now and have heretofore lived and cohabited together as husband and wife shall be taken and held in law as legally married, and the issue shall be taken and held as legitimate for all purposes. That it shall not be lawful for any freedman, free Negro, or mulatto to intermarry with any white person; nor for any white person to intermarry with any freedman, free Negro, or mulatto; and any person who shall so intermarry shall be deemed guilty of felony and, on conviction thereof, shall be confined in the state penitentiary for life; and those shall be deemed freedmen, free Negroes, and mulattoes who are of pure Negro blood; and those descended from a Negro to the third generation inclusive, though one ancestor of each generation may have been a white person...

Section 5. *Be it further enacted*, that every freedman, free Negro, and mulatto shall, on the second Monday of January 1866, and annually thereafter, have a lawful home or employment, and shall have a written evidence thereof, as follows, to wit: if living in any incorporated city, town, or village, a license from the mayor thereof; and if living outside of any incorporated city, town, or village, from the member of the board of police of his beat, authorizing him or her to do irregular and job work, or a written contract, as provided in Section 6 of this act, which licenses may be revoked for cause, at any time, by the authority granting the same<sup>9</sup>.

Section 6. *Be it further enacted*, that all contracts for labor made with freedmen, free Negroes, and mulattoes for a longer period than one month shall be in writing and in duplicate, attested and read to said freedman, free Negro, or mulatto by a beat, city, or county officer, or two disinterested white persons of the county in which the labor is to be performed, of which each party shall have one; and said contracts shall be taken and held as entire contracts; and if the laborer shall quit the service of the employer before expiration of his term of service without good cause, he shall forfeit his wages for that year, up to the time of quitting.

Section 7. *Be it further enacted*, that every civil officer shall, and every person may, arrest and carry back to his or her legal employer any freedman, free Negro, or mulatto who shall have quit the service of his or her employer before the expiration of his or her term of service without good cause, and said officer and person shall be entitled to receive for arresting and carrying back every deserting employee aforesaid the sum of \$5, and 10 cents per mile from the place of arrest to the place of delivery, and the same shall be paid by the employer, and held as a setoff for so much against the wages of said deserting employee...

Section 9. *Be it further enacted*, that if any person shall persuade or attempt to persuade, entice, or cause any freedman, free Negro, or mulatto to desert from the legal employment of any person before the expiration of his or her term of service, or shall knowingly employ any such deserting freedman, free Negro, or mulatto, or shall knowingly give or sell to any such deserting freedman, free Negro, or mulatto any food, raiment, or other thing, he or she shall be guilty of a misdemeanor; and, upon conviction, shall be fined not less than \$25 and not more than \$200 and the costs; and, if said fine and costs shall not be immediately paid, the court shall sentence said

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<sup>9</sup> Sharecropper contracts, like the one from the Grimes Family plantation, were the only option.

convict to not exceeding two months' imprisonment in the county jail, and he or she shall moreover be liable to the party injured in damages:

*Provided*, if any person shall, or shall attempt to, persuade, entice, or cause any freedman, free Negro, or mulatto to desert from any legal employment of any person with the view to employ said freedman, free Negro, or mulatto without the limits of this state, such person, on conviction, shall be fined not less than \$50 and not more than \$1500 and costs; and, if said fine and costs shall not be immediately paid, the court shall sentence said convict to not exceeding six months' imprisonment in the county jail,

### Penal Code

Section 1. *Be it enacted by the legislature of the state of Mississippi*, that no freedman, free Negro, or mulatto not in the military service of the United States government, and not licensed so to do by the board of police of his or her county, shall keep or carry firearms of any kind, or any ammunition, dirk, or Bowie knife; and, on conviction *thereof in the county court*, shall be punished by fine, not exceeding \$10, and pay the costs of such proceedings, and all such arms or ammunition shall be forfeited to the informer; and it shall be the duty of every civil and military officer to arrest any freedman, free Negro, or mulatto found with any such arms or ammunition, and cause him or her to be committed for trial in default of bail.

Section 2. *Be it further enacted*, that any freedman, free Negro, or mulatto committing riots, routs, affrays, trespasses, malicious mischief, cruel treatment to animals, seditious speeches<sup>10</sup>, insulting gestures, language, or acts, or assaults on any person, disturbance of the peace, exercising the function of a minister of the Gospel without a license from some regularly organized church, vending spirituous or intoxicating liquors, or committing any other misdemeanor the punishment of which is not specifically provided for by law shall, upon conviction thereof in the county court, be fined not less than \$10 and not more than \$100, and may be imprisoned, at the discretion of the court, not exceeding thirty days.

Section 3. *Be it further enacted*, that if any white person shall sell, lend, or give to any freedman, free Negro, or mulatto any firearms, dirk<sup>11</sup>, or Bowie knife, or ammunition, or any spirituous or intoxicating liquors, such person or persons so offending, upon conviction thereof in the county court of his or her county, shall be fined not exceeding \$50, and may be imprisoned, at the discretion of the court, not exceeding thirty days:

Section 5. *Be it further enacted*, that if any freedman, free Negro, or mulatto convicted of any of the misdemeanors provided against in this act shall fail-or refuse, for the space of five days after conviction, to pay the fine and costs imposed, such person shall be hired out by the sheriff or other officer, at public outcry, to any white person who will pay said fine and all costs and take such convict for the shortest time.

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<sup>10</sup> Inciting people to rebel. Quite ironic – the Southern Democrats do not want African Americans to incite anyone to rebel.

<sup>11</sup> Short dagger.

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