

AN ACT TO PUNISH VAGRANCY.

Chap. 42.

SECTION 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That if any person who may be able to labor has no apparent means of subsistence, and neglects to apply himself to some honest occupation for the support of himself and his family, if he have one; or, if any person shall be found spending his time in dissipation, or gaming, or sauntering about without employment, or endeavoring to maintain himself or his family by any undue or unlawful means, such person shall be deemed a vagrant, and guilty of a misdemeanor. And it shall

Vagrancy defined and punished.

Mississippi Black Code

Adapted from a document placed online by Jud Sage at Northern Virginia Community College

The status of the Negro was the focal problem of Reconstruction. Slavery had been abolished by the Thirteenth Amendment, but the white people of the South were determined to keep the Negro in his place, socially, politically, and economically. This was done by means of the notorious "Black Codes," passed by several of the state legislatures. Northerners regarded these codes as a revival of slavery in disguise. The first such body of statutes, and probably the harshest, was passed in Mississippi in November 1865. Four of the statutes that made up the code are reprinted below.

Source, *Laws of the State of Mississippi, Passed at a Regular Session of the Mississippi Legislature, held in Jackson, October, November and December, 1865, Jackson, 1866*, pp. 82-93, 165-167,

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 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:

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 3. *Be it further enacted*, that in the management and control of said apprentices, said master or mistress shall have power to inflict such moderate corporeal chastisement as a father or guardian is allowed to inflict on his or her child or ward at common law:

Provided, that in no case shall cruel or inhuman punishment be inflicted.

Section 4. *Be it further enacted*, that if any apprentice shall leave the employment of his or her master or mistress without his or her consent, said master or mistress may pursue and recapture said apprentice and bring him or her before any justice of the peace of the county, whose duty it shall be to remand said apprentice to the service of his or her master or mistress; and in the event of a refusal on the part of said apprentice so to return, then said justice shall commit said apprentice to the jail of said county, on failure to give bond, until the next term of the county court; and it shall be the duty of said court, at the first term thereafter, to investigate said case; and if the court shall be of opinion that said apprentice left the employment of his or her master or mistress without good cause, to order him or her to be punished, as provided for the punishment of hired freedmen, as may be from time to time provided for by law, for desertion, until he or she shall agree to return to his or her master or mistress:

Provided, that the court may grant continuances, as in other cases; and *provided*, further, that if the court shall believe that said apprentice had good cause to quit his said master or mistress, the court shall discharge said apprentice from said indenture and also enter a judgment against the master or mistress for not more than \$100, for the use and benefit of said apprentice, to be collected on execution, as in other cases.

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

Section 7. *Be it further enacted*, that in case the master or mistress of any apprentice shall desire, he or she shall have the privilege to summon his or her said apprentice to the Probate Court, and thereupon, with the approval of the court, he or she shall be released from all liability as master of said apprentice, and his said bond shall be canceled, and it shall be the duty of the court forthwith to reapprentice said minor; and in the event any master of in apprentice shall die before the close of the term of service of said apprentice, it shall be the duty of the court to give the preference in reapprenticing said minor to the widow, or other member of said master's family:

Provided, that said widow or other member of said family shall be a suitable person for that purpose.

Section 8. *Be it further enacted*, that in case any master or mistress of any apprentice, bound to him or her under this act shall be about to remove or shall have removed to any other state of the United States by the laws of which such apprentice may be an inhabitant thereof, the Probate Court of the proper county may authorize the removal of such apprentice to such state, upon the said master or mistress entering into bond, with security, in a penalty to be fixed by the judge, conditioned that said master or mistress will, upon such removal, comply with the laws of such state in such cases:

Provided, that said master shall be cited to attend the court at which such order is proposed to be made and shall have a right to resist the same by next friend, or otherwise.

Section 9. *Be it further enacted*, that it shall be lawful for any freedman, free Negro, or Mulatto having a minor child or children to apprentice the said minor child or children as provided for by this act.

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.

II.

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, runaways, common drunkards, common nightwalkers, pilferers, lewd, wanton, or lascivious persons, in speech or behavior, common railers 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 ill-fame, gaming houses, or tippling shops, 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 3. *Be it further enacted*, that all justices of the peace, mayors, and aldermen of incorporated towns and cities of the several counties in this state shall have jurisdiction to try all questions of vagrancy in their respective towns, counties, and cities; and it is hereby made their duty, whenever they shall ascertain that any person or persons in their respective towns, counties, and cities are violating any of the provisions of this act, to have said party or parties arrested and brought before them and immediately investigate said charge; and, on conviction, punish said party or parties as provided for herein. And it is hereby made the duty of all sheriffs, constables, town constables, city marshals, and all like officers to report to some officer having jurisdiction all violations of any of the provisions of this act; and it shall be the duty of the county courts to inquire if any officers have neglected any of the duties required by this act; and in case any officer shall fail or neglect any duty herein, it shall be the duty of the county court to fine said officer, upon conviction, not exceeding \$100, to be paid into the county treasury for county purposes.

Section 4. *Be it further enacted*, that keepers of gaming houses, houses of prostitution, all prostitutes, public or private, and all persons who derive their chief support in employments that militate against good morals or against laws shall be deemed and held to be vagrants.

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:

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 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 the same duties and liabilities existing among white persons of this state shall attach to freedmen, free Negroes, and mulattoes to support their indigent families and all colored paupers; and that, in order to secure a support for such 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 \$1 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, 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:

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 4. *Be it further enacted*, that in addition to cases in which freedmen, free Negroes, and mulattoes are now by law competent witnesses, freedmen, free Negroes, or mulattoes shall be competent in civil cases when a party or parties to the suit, either plaintiff or plaintiffs, defendant or defendants, also in cases where freedmen, free Negroes, and mulattoes is or are either plaintiff or plaintiffs, defendant or defendants, and a white person or white persons is or are the opposing party or parties, plaintiff or plaintiffs, defendant or defendants. They shall also be competent witnesses in all criminal prosecutions where the crime charged is alleged to have been committed by a white person upon or against the person or property of a freedman, free Negro, or mulatto:

Provided, that in all cases said witnesses shall be examined in open court on the stand, except, however, they may be examined before the grand jury, and shall in all cases be subject to the rules and tests of the common law as to competency and credibility.

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.

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:

Provided, that said arrested party, after being so returned, may appeal to a justice of the peace or member of the board of police of the county, who, on notice to the alleged employer, shall try summarily whether said appellant is legally employed by the alleged employer and his good cause to quit said employer; either party shall have the right of appeal to the county court, pending which the alleged deserter shall be remanded to the alleged employer or otherwise disposed of as shall be right and just, and the decision of the county court shall be final.

Section 8. *Be it further enacted*, that upon affidavit made by the employer of any freedman, free Negro, or mulatto, or other credible person before any justice of the peace or member of the board of police, that any freedman, free Negro, or mulatto, legally employed by said employer, has illegally deserted said employment, such justice of the peace or member of the board of police shall issue his warrant or warrants, returnable before himself, or other such officer, directed to any sheriff, constable, or special deputy, commanding him to arrest said deserter and return him or her to said employer, and the like proceedings shall be had as provided in the preceding section; and it shall be lawful for any officer to whom such warrant shall be directed to execute said warrant in any county of this state, and that said warrant may be transmitted without endorsement to any like officer of another county, to be executed and returned as aforesaid, and the said employer shall pay the cost of said warrants and arrest and return, which shall be set off for so much against the wages of said deserter.

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 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,

Section 10. *Be it further enacted*, that it shall be lawful for any freedman, free Negro, or mulatto to charge any white person, freedman, free Negro, or mulatto, by affidavit, with any criminal offense against his or her person or property; and, upon such affidavit, the proper process shall be issued and executed as if said affidavit was made by a white person; and it shall be lawful for any freedman, free Negro, or mulatto, in any action, suit, or controversy pending or about to be

instituted, in any court of law or equity of this state. to make all needful and lawful affidavits, as shall be necessary for the institution, prosecution, or defense of such suit or controversy.

Section 11. *Be it further enacted*, that the penal laws of this state, in all cases not otherwise specially provided for, shall apply and extend to all freedmen, free Negroes, and mulattoes.

IV.

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, 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, 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:

Provided, that any master, mistress, or employer of any freedman, free Negro, or mulatto may give to any freedman, free Negro, or mulatto apprenticed to or employed by such master, mistress, or employer spirituous or intoxicating liquors, but not in sufficient quantities to produce intoxication.

Section 4. *Be it further enacted*, that all the penal and criminal laws now in force in this state defining offenses and prescribing the mode of punishment for crimes and misdemeanors committed by slaves, free Negroes, or mulattoes be and the same are hereby reenacted and declared to be in full force and effect against freedmen, free Negroes, and mulattoes, except so far as the mode and manner of trial and punishment have been changed or altered by law.

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. (Westport, Conn., 1972) Ark. Narr., Vol. 8, 175- 179.
