

**DOCUMENT:**

Black Codes of Mississippi

Mississippi Legislature | October 1865, December 1865

INTRODUCTION

Mississippi was the first state to assemble a constitutional convention, doing so in mid-August 1865. In August, President Andrew Johnson wrote William Sharkey, his provisional governor (see [Proclamation on Reorganizing Constitutional Government in Mississippi](https://teachingamericanhistory.org/library/document/proclamation-on-reorganizing-constitutional-government-in-mississippi/)

([https://teachingamericanhistory.org/library/document/proclamation-on-reorganizing-constitutional-government-in-](https://teachingamericanhistory.org/library/document/proclamation-on-reorganizing-constitutional-government-in-mississippi/)

[mississippi/](https://teachingamericanhistory.org/library/document/proclamation-on-reorganizing-constitutional-government-in-mississippi/))), as the convention opened. Mississippi's new constitution, Johnson wrote, would not be approved unless it adopted the 13th Amendment

(<https://teachingamericanhistory.org/library/document/the-13th-amendment-to-the-constitution/>), nullified the

state's previous act of secession, and repudiated war debts accumulated by its rebel government. The convention accomplished these goals after some

controversy. Mississippi's Constitution skirted the issue of voting rights for blacks, delegating that issue and any others to the legislature that would be elected in October 1865. Elections were held in October 1865, bringing many old Confederates into office. Most prominent among them was Benjamin G. Humphreys (1808-1882), an officer in the Confederate Army, who was elected governor. Johnson pardoned the new governor ten days after he was elected. Humphreys convened the legislature, which passed a series of laws, known as black codes, to regulate the labor, movements, and activities of the recently freed slaves during the first months of its session.

SOURCE: *LAWS OF THE STATE OF MISSISSIPPI, PASSED AT A REGULAR SESSION OF THE MISSISSIPPI LEGISLATURE, HELD IN THE CITY OF JACKSON, OCTOBER, NOVEMBER AND DECEMBER, 1865* (JACKSON: J. J. SHANNON & CO., STATE PRINTERS, 1866), 82-85, 86-89, 90-91, 165-167. AVAILABLE AT [HTTPS://GOO.GL/CJFW5K](https://goo.gl/CJFW5K).

An Act to Confer Civil Rights on Freedmen, and for Other Purposes

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, . . . may acquire personal property . . . and may dispose of the same in the same manner and to the same extent that white persons may: [*but no*] freedman, free Negro, or mulatto [*shall*] rent or lease any lands or tenements, except in incorporated towns or cities, in which places the corporate authorities shall control the same.

Sec 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

Sec 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.

Sec 4. Be it further enacted, That in addition to cases in which freedmen, free negroes, or mulattoes are now by law competent witnesses, freedmen, free negroes, and mulattoes shall be competent in civil cases when a party or parties to the suit . . . also in cases where a white person or persons is or are the opposing parties [and] 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

Sec 5. Be it further enacted, That Every freedman, free Negro, and mulatto shall . . . 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.

Sec 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 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.

Sec 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 five dollars . . . and the same shall be paid by the employer, and held as a setoff for so much against the wages of said deserting employee

. . .

Sec 9. Be if 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 . . . he or she shall be guilty of a misdemeanor

An Act to Regulate the Relation of Master and Apprentice, as relates to Freedmen, Free Negroes, and Mulattoes

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.

...

Sec 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.

Sec 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

Sec 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.

. . .

Sec 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

. . .

An Act to Amend the Vagrant Laws of the State

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 practicing 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 . . . and be imprisoned at the discretion of the court not exceeding ten days.

Sec 2. Be it further enacted, That all freedmen, free Negroes, and mulattoes in this state over the age of eighteen years found . . . with no lawful employment or business, or found unlawfully assembling themselves together . . . 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, fifty dollars, and a white man, two hundred dollars, and imprisoned at the discretion of the court, the free Negro not exceeding ten days, and the white man not exceeding six months.

Sec 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. . . .

An Act to Punish Certain Offenses Herein Named, and for Other Purposes

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

Sec 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 ten dollars and not more than one hundred dollars, and may be imprisoned, at the discretion of the court, not exceeding thirty days.

. . .

Sec 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 re-enacted, 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.

Sec 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 . . . to any white person who will pay said fine and all costs and take such convict for the shortest time. . . .

Study Questions

A. Describe the various ways that freedom for freed slaves is compromised under the black codes of Mississippi. How is life under the black codes different from slavery?

B. Would the 13th Amendment

(<https://teachingamericanhistory.org/library/document/the-13th-amendment-to-the-constitution/>) help to limit the

powers of the state to pass black codes? Under what reading of the 13th Amendment would it be of help to freed slaves? What vision of federal power would be necessary to prevent states from passing and enforcing Black Codes (consider The Act to Protect All Persons in the United States in Their Civil Rights

(<https://teachingamericanhistory.org/library/document/the-civil-rights-act-of-1866/>), Congressional Debate on the 14th Amendment

(<https://teachingamericanhistory.org/library/document/congressional-debate-on-the-14th-amendment/>), and The Enforcement Acts

(<https://teachingamericanhistory.org/library/document/the-enforcement-acts/>))? What might explain why black codes arose in these states (consider Senator Carl Schurz "Plea

for Amnesty”

(<https://teachingamericanhistory.org/library/document/plea-for-amnesty/>)?