

## 96. The Mississippi Black Code (1865)

Source: Walter L. Fleming, ed., *Documentary History of Reconstruction* (Cleveland, 1906-1907), Vol. 1, pp. 281-90.

During 1865, Andrew Johnson put into effect his own plan of Reconstruction, establishing procedures whereby new governments, elected by white voters only, would be created in the South. Among the first laws passed by the new governments were the Black Codes, which attempted to regulate the lives of the former slaves. These laws granted the freedpeople certain rights, such as legalized marriage, ownership of property, and limited access to the courts. But they denied them the right to testify in court in cases that only involved whites, serve on juries or in state militias, or to vote. And in response to planters' demands that the freedpeople be required to work on the plantations, the Black Codes declared that those who failed to sign yearly labor contracts could be arrested and hired out to white landowners. The Black Codes indicated how the white South would regulate black freedom if given a free hand by the federal government. But they so completely violated free labor principles that they discredited Johnson's Reconstruction policy among northern Republicans.

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### VAGRANT LAW

Sec. 2. . . . All freedmen, free negroes and mulattoes in this State, over the age of eighteen years, found on the second Monday in January, 1866, or thereafter, with no lawful employment or business, or found unlawfully assembling themselves together, either in the day or night time, and all white persons so assembling themselves 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 freed woman, free negro or mulatto, shall be deemed vagrants, and on conviction thereof shall be fined in a sum 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. 7. . . . If any freedman, free negro, or mulatto shall fail or refuse to pay any tax levied according to the provisions of the sixth 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 tax-payer to any one who will pay the said tax, with accruing costs, giving preference to the employer, if there be one.

### CIVIL RIGHTS OF FREEDMEN

Sec. 1. . . . 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 so construed as to allow any freedman, free negro, or mulatto to rent or lease any lands or tenements except in incorporated cities or towns. . . .

Sec. 2. . . . 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.

Sec. 3. . . . All freedmen, free negroes, or mulattoes who do now and have herebefore 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 in each generation may have been a white person.

Sec. 4. . . . 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.

Sec. 5. . . . Every freedman, free negro, and mulatto shall, on the second Monday of January, one thousand eight hundred and sixty-six and annually thereafter, have a lawful home or employment, and shall have written evidence thereof. . . .

Sec. 6. . . . 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 the 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. . . . 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. . . . *Provided*, that said arrested party, after being so returned, may appeal to the 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 has 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.

#### CERTAIN OFFENSES OF FREEDMEN

Sec. 1. . . . 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 ten dollars, and pay the costs of such proceedings, and all such arms or ammunition shall be forfeited to the informer. . . .

Sec. 2. . . . 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. 3. . . . If any white person shall sell, lend, or give to any freedman, free negro, or mulatto any fire-arms, 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 fifty dollars, and may be imprisoned, at the discretion of the court, not exceeding thirty days. . . .

Sec. 5. . . . 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 said convict for the shortest time.

### Questions

1. Why do you think the state of Mississippi required all black persons to sign yearly labor contracts but not white citizens?
2. What basic rights are granted to the former slaves and which are denied to them by the Black Code?

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## 97. A Sharecropping Contract (1866)

*Source: Records of the Assistant Commissioner for the State of Tennessee, Bureau of Refugees, Freedmen, and Abandoned Lands, National Archives.*

Despite the widespread desire for land, few former slaves were able to acquire farms of their own in the post-Civil War South. Most ended up as sharecroppers, working on white-owned land for a share of the crop at the end of the growing season. Sharecropping was a kind of compromise between blacks' desire for independence from white control and planters' desire for a disciplined labor force. This contract, typical of thousands, originated in Shelby County, Tennessee. The laborers signed with an X, as they were illiterate. Typical of early postwar contracts, it gave the planter the right to supervise the labor of his employees. Later sharecropping contracts afforded former slaves greater autonomy. Families would rent par-

cels of land, work it under their own direction, and divide the crop with the owner at the end of the year. But as the price of cotton fell continuously after the Civil War, workers found it difficult to profit from the sharecropping system.

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THOMAS J. ROSS agrees to employ the Freedmen to plant and raise a crop on his Rosstown Plantation. . . . On the following Rules, Regulations and Remunerations.

The said Ross agrees to furnish the land to cultivate, and a sufficient number of mules & horses and feed them to make and house said crop and all necessary farming utensils to carry on the same and to give unto said Freedmen whose names appear below one half of all the cotton, corn and wheat that is raised on said place for the year 1866 after all the necessary expenses are deducted out that accrues on said crop. Outside of the Freedmen's labor in harvesting, carrying to market and selling the same and the said Freedmen whose names appear below covenant and agrees to and with said Thomas J. Ross that for and in consideration of one half of the crop before mentioned that they will plant, cultivate, and raise under the management control and Superintendence of said Ross, in good faith, a cotton, corn and oat crop under his management for the year 1866. And we the said Freedmen agrees to furnish ourselves & families in provisions, clothing, medicine and medical bills and all, and every kind of other expenses that we may incur on said plantation for the year 1866 free of charge to said Ross. Should the said Ross furnish us any of the above supplies or any other kind of expenses, during said year, are to settle and pay him out of the net proceeds of our part of the crop the retail price of the county at time of sale or any price we may agree upon. The said Ross shall keep a regular book account, against each and every one or the head of every family to be adjusted and settled at the end of the year.

We furthermore bind ourselves to and with said Ross that we will do good work and labor ten hours a day on an average, winter and summer. The time to run from the time we commence to the

time we quit. . . . We further agree that we will lose all lost time, or pay at the rate of one dollar per day, rainy days excepted. In sickness and women lying in childbed are to lose the time and account for it to the other hands out of his or her part of the crop at the same rates that she or they may receive per annum.

We furthermore bind ourselves that we will obey the orders of said Ross in all things in carrying out and managing said crop for said year and be docked for disobedience. All is responsible for all farming utensils that is on hand or may be placed in care of said Freedmen for the year 1866 to said Ross and are also responsible to said Ross if we carelessly, maliciously maltreat any of his stock for said year to said Ross for damages to be assessed out of our wages for said year.

Samuel (X) Johnson, Thomas (X) Richard, Tinny (X) Fitch, Jessie (X) Simmons, Sophe (X) Pruden, Henry (X) Pruden, Frances (X) Pruden, Elijah (X) Smith

## Questions

1. In what ways does the contract limit the freedom of the laborers?
2. What kinds of benefits and risks for the freedpeople are associated with a sharecropping arrangement?

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## 98. Elizabeth Cady Stanton, "Home Life" (ca. 1875)

*Source: "Home Life," manuscript, ca. 1875, Elizabeth Cady Stanton Papers, Library of Congress.*

Women activists saw Reconstruction as the moment for women to claim their own emancipation. With blacks guaranteed equality before the law

by the Fourteenth Amendment and black men given the right to vote by the Fifteenth, women demanded that the boundaries of American democracy be expanded to include them as well. Other feminists debated how to achieve "liberty for married women." In 1875, Elizabeth Cady Stanton drafted an essay that demanded that the idea of equality, which had "revolutionized" American politics, be extended into private life. Genuine liberty for women, she insisted, required an overhaul of divorce laws (which generally required evidence of adultery, desertion, or extreme abuse to terminate a marriage) and an end to the authority men exercised over their wives.

Women's demand for the right to vote found few sympathetic male listeners. Even fewer supported liberalized divorce laws. But Stanton's extension of the idea of "liberty for women" into the most intimate areas of private life identified a question that would become a central concern of later generations of feminists.

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WE ARE IN the midst of a social revolution, greater than any political or religious revolution, that the world has ever seen, because it goes deep down to the very foundations of society. . . . A question of magnitude presses on our consideration, whether man and woman are equal, joint heirs to all the richness and joy of earth and Heaven, or whether they were eternally ordained, one to be sovereign, the other slave. . . . Here is a question with half the human family, and that the stronger half, on one side, who are in possession of the citadel, hold the key to the treasury and make the laws and public sentiment to suit their own purposes. Can all this be made to change base without prolonged discussion, upheavings, heartburnings, violence and war? Will man yield what he considers to be his legitimate authority over woman with less struggle than have Popes and Kings their supposed rights over their subjects, or slaveholders over their slaves? No, no. John Stuart Mill says the generality of the male sex cannot yet tolerate the idea of living with an equal at the fireside; and here is the secret of the opposition to woman's equality in the state and the church—men are not ready to recognize it in the home. This is the