

mentioned, order and designate as the States and parts of States wherein the people thereof respectively, are this day in rebellion against the United States, the following, to wit:

Arkansas, Texas, Louisiana (except the Parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James[,] Ascension, Assumption, Terrebonne, Lafourche, St. Mary, St. Martin, and Orleans, including the City of New-Orleans), Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia (except the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth-City, York, Princess Ann, and Norfolk, including the cities of Norfolk & Portsmouth []); and which excepted parts are, for the present, left precisely as if this proclamation were not issued.

And by virtue of the power, and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States, and parts of States, are, and henceforward shall be free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence, and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.

And I further declare and make known, that such persons of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution, upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and of the Independence of the United States of America the eighty-seventh.

By the President:
Abraham Lincoln

William H. Stewart,
Secretary of State

8

10

United States Constitution: *Thirteenth (1865), Fourteenth (1868), and Fifteenth (1870)* Amendments

Amendment XIII (Ratified December 6, 1865). *Section 1.* Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV (Ratified July 9, 1868). *Section 1.* All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and, citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a

member of Congress, or as an officer of the United States, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims, shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV (Ratified February 3, 1870). *Section 1.* The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

11

The Black Codes

W. E. B. Du Bois

The whole proof of what the South proposed to do to the emancipated Negro, unless restrained by the nation, was shown in the Black Codes passed after [President Andrew] Johnson's accession, but representing the logical result of attitudes of mind existing when Lincoln still lived. Some of these were passed and enforced. Some were passed and afterward repealed or modified when the reaction of the North was realized. In other cases, as for instance, in Louisiana, it is not clear just which laws were retained and which were repealed. In Alabama, the Governor induced the legislature not to enact some parts of the proposed code which they overwhelmingly favored.

From W.E.B. Du Bois, *Black Reconstruction* (New York: Harcourt Brace, 1935). Reprinted by permission of David G. Du Bois.

The original codes favored by the Southern legislatures were an astonishing affront to emancipation and dealt with vagrancy, apprenticeship, labor contracts, migration, civil and legal rights. In all cases, there was plain and indisputable attempt on the part of the Southern states to make Negroes slaves in everything but name. They were given certain civil rights: the right to hold property, to sue and be sued. The family relations for the first time were legally recognized. Negroes were no longer real estate.

Yet, in the face of this, the Black Codes were deliberately designed to take advantage of every misfortune of the Negro. Negroes were liable to a slave trade under the guise of vagrancy and apprenticeship laws; to make the best labor contracts, Negroes must leave the old plantations and seek better terms; but if caught wandering in search of work, and thus unemployed and without a home, this was vagrancy, and the victim could be whipped and sold into slavery. In the turmoil of war, children were separated from parents, or parents unable to support them properly. These children could be sold into slavery, and "the former owner of said minors shall have the preference." Negroes could come into court as witnesses only in cases in which Negroes were involved. And even then, they must make their appeal to a jury and judge who would believe the word of any white man in preference to that of any Negro on pain of losing office and caste.

The Negro's access to the land was hindered and limited; his right to work was curtailed; his right of self-defense was taken away, when his right to bear arms was stopped; and his employment was virtually reduced to contract labor with penal servitude as a punishment for leaving his job. And in all cases, the judges of the Negro's guilt or innocence, rights and obligations were men who believed firmly, for the most part, that he had "no rights which a white man was bound to respect."

Making every allowance for the excitement and turmoil of war, and the mentality of a defeated people, the Black Codes were infamous pieces of legislation.

Let us examine these codes in detail.¹ They covered, naturally, a wide range of subjects. First, there was the question of allowing Negroes to come into the state. In South Carolina the constitution of 1865 permitted the Legislature to regulate immigration, and the consequent law declared "that no person of color shall migrate into and reside in this State, unless, within twenty days after his arrival within the same, he shall enter into a bond, with two freeholders as sureties . . . in a penalty of one thousand dollars, conditioned for his good behavior, and for his support."

Especially in the matter of work was the Negro narrowly restricted. In South Carolina, he must be especially licensed if he was to follow on his own account any employment, except that of farmer or servant. Those licensed must not only prove their fitness, but pay an annual tax ranging from \$10-\$100. Under no circumstances could they manufacture or sell liquor. Licenses for work were to be granted by a judge and were revokable on complaint. The penalty was a fine double the amount of the license, one-half of which went to the informer.

Mississippi provided that "every freedman, free Negro, and mulatto shall on the second Monday of January, one thousand eight hundred and sixty-six, and