

Virginia Codes Regulating Servitude and Slavery, 1642–1705

SEVENTEENTH-CENTURY VIRGINIA USED BOTH white and black unfree laborers, and their circumstances were more similar than you might think. Some English people bought passage on a ship to Virginia in exchange for signing an indenture, committing them to work without pay for a certain number of years. Many English children were kidnapped and forced to work in Virginia. Slave traders brought African laborers against their will and sold them as unfree laborers. In Virginia, these white and black men and women worked under fairly similar conditions. Many black servants gained freedom, and some even acquired land and bought their own servants. But over time, English Virginians came to see permanent race-based slavery as the best way to farm tobacco. Below are acts that the Virginia General Assembly passed to regulate servitude, in chronological order.

1642 Whereas many great abuses and much detriment have been found to arise both against the law of God and likewise to the service of many masters of families in the colony occasioned through secret marriages of servants, their masters and mistresses being not any ways made privy thereto, as also by committing of fornication, for preventing the like abuses hereafter: Be it enacted and confirmed by this Grand Assembly that what manservant soever hath since January 1640 or hereafter shall secretly marry with any maid or woman servant without the consent of her master or mistress if she [the mistress] be a widow, he or they so offending shall in the first place serve out his or their time or times with his or their masters or mistresses, and after shall serve his or their master or mistress one complete year more for such offence committed, and the maid or woman servant so marrying without consent as

aforesaid shall for such her offence double the time of service with her master and mistress, and a freeman so offending shall give satisfaction to the master or mistress by doubling the value of the service¹ and pay a fine of five hundred pounds of tobacco to the parish where such offence shall be committed, and it is also further enacted and confirmed by the authority of this Grand Assembly that if any manservant shall commit the act of fornication with any maid or woman servant, he shall for his offence, besides the punishment by the law appointed in like cases,² give satisfaction for the loss of her service, by one whole year's service, when he shall be free from his master according to his indentures, and if it so fall out that a freeman offend as formerly he shall be compelled to make satisfaction to the master or mistress of the woman servant by his service for one complete year, or otherwise give forthwith such valuable consideration as the commissioners in their discretion shall think fit.

Whereas complaints are at every quarter court exhibited against divers³ persons who entertain and enter into covenants with runaway servants and freemen who have formerly hired themselves to others to the great prejudice if not the utter undoing of divers poor men, thereby also encouraging servants to run from their masters and obscure themselves in some remote plantations, upon consideration had for the future preventing of the like injurious and unjust dealings: Be it enacted and confirmed that what person or persons soever shall entertain any person as hireling, or sharer or upon any other conditions for one whole year without certificate from the commander or any one commissioner of the place, that he or she is free from any engagement of service, the person so hiring without such certificate as aforesaid, shall for every night that he or she entertain any servant either as hireling or otherwise, forfeit to the master or mistress of the servant twenty pounds of tobacco. . . .

Whereas there are divers loitering runaways in the colony who very often absent themselves from their masters' service, and sometimes in two or three months cannot be found, whereby their masters are at great charge in finding them, and many times even to the loss of their year's labor before they be had: Be it therefore enacted and confirmed that all runaways that shall absent themselves from their masters' service shall be liable to make satisfaction by service at the end of their times by indenture double the time of service so neglected, and in some cases more if the commissioners for the place appointed shall find it requisite and convenient. And if such runaways shall be found to transgress the second time or oftener (if it shall be duly proved against them) that then they shall be branded in the cheek with the letter R and pass under the statute of incorrigible rogues, provided notwithstanding that where any servants shall have just cause of complaint against their masters or mistresses by harsh or unchristianlike usage or otherwise for want of

diet, or convenient necessities that then it shall be lawful for any such servant or servants to repair to the next commissioner to make his or their complaint.

1661 Whereas there are divers loitering runaways in this country who very often absent themselves from their masters' service and sometimes in a long time cannot be found, the loss of the time and the charge in the seeking them often exceeding the value of their labor: Be it therefore enacted that all runaways that shall absent themselves from their masters' service, shall be liable to make satisfaction by service after the times by custom or indenture is expired, viz. double their times of service so neglected, and if the time of their running away was in the crop⁴ or the charge of recovering them extraordinary the court shall limit a longer time of service proportional to the damage the master shall make appear he hath sustained. . . . and in case any English servant shall run away in company of any negroes who are incapable of making satisfaction by addition of time, it is enacted that the English so running away in the company with them shall at the time of service to their own masters expired, serve the masters of the negroes for their absence so long as they should have done by this act if they had not been slaves, every christian in company serving his proportion; and if the negroes be lost or die in such time of their being run away, the christian servants in company with them shall by proportion among them, either pay four thousand five hundred pounds of tobacco and cask or four years' service for every negro so lost or dead.

1662 Whereas some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free: Be it therefore enacted . . . that all children born in this country shall be held bond or free only according to the condition of the mother. . . .

1667 Whereas some doubts have arisen whether children that are slaves by birth, and by the charity and piety of their owners made partakers of the blessed sacrament of baptism, should by virtue of their baptism be made free: It is enacted . . . that the conferring of baptism doth not alter the condition of the person as to his bondage or freedom; that divers masters, freed from this doubt, may more carefully endeavor the propagation of christianity by permitting [slaves] to be admitted to the sacrament.

1669 Whereas the only law⁵ in force for the punishment of refractory servants resisting their master, mistress or overseer cannot be inflicted upon negroes, nor the obstinacy of many of them by other than violent means suppressed: Be it enacted [that] if any slave resist his master (or others by his

master's order correcting him) and by the extremity of the correction should chance to die, that his death shall not be accounted felony, but the master (or that other person appointed by the master to punish him) be acquit from molestation, since it cannot be presumed that prepensed malice (which alone makes murder felony) should induce any man to destroy his own estate.

1680⁶ Whereas the frequent meeting of considerable numbers of negro slaves under pretence of feasts and burials is judged of dangerous consequence; for prevention whereof for the future: Be it enacted . . . that from and after the publication of this law, it shall not be lawful for any negro or other slave to carry or arm himself with any club, staff, gun, sword or any other weapon of defense or offence, nor to go or depart from off his master's ground without a certificate from his master, mistress or overseer, and such permission not to be granted but upon particular and necessary occasions; and every negro or slave so offending not having a certificate as aforesaid shall be sent to the next constable, who is hereby enjoined and required to give the negro twenty lashes on his bare back well laid on, and . . . if any negro or other slave shall presume to lift up his hand in opposition against any christian, shall for every such offence, upon due proof made thereof by the oath of the party before a magistrate, have and receive thirty lashes on his bare back well laid on. And it is hereby further enacted . . . that if any negro or other slave shall absent himself from his master's service and lie hid and lurking in obscure places, committing injuries to the inhabitants, and shall resist any person or persons that shall by any lawful authority be employed to apprehend and take the negro, that then in case of such resistance, it shall be lawful for such person or persons to kill the negro or slave.

1691 For the prevention of that abominable mixture and spurious issue which hereafter may increase in this dominion, as well by negroes, mulattoes, and Indians intermarrying with English, or other white women, as by their unlawful accompanying with one another: Be it enacted . . . that for the time to come, whatsoever English or other white man or woman being free shall intermarry with a negro, mulatto, or Indian man or woman bond or free shall within three months after such marriage be banished and removed from this dominion forever. . . . And be it further enacted . . . that if any English woman being free shall have a bastard child by any negro or mulatto, she pay the sum of fifteen pounds sterling, within one month after such bastard child shall be born, to the Church wardens of the parish where she shall be delivered of such a child, and in default of such payment she shall be taken into the possession of the Church wardens and disposed of for five years, and the fine of fifteen pounds, or whatever the woman shall be disposed of for,⁷ shall be paid, one

third part to their majesties for and towards the support of the government and the contingent charges thereof, and one other third part to the use of the parish where the offense is committed, and the other third part to the informer, and that such bastard child be bound out as a servant by the Church wardens until he or she shall attain the age of thirty years, and in case such English woman that shall have such a bastard child be a servant, she shall be sold by the Church wardens (after her time is expired that she ought by law to serve her master) for five years, and the money she shall be sold for divided as is before appointed, and the child to serve as aforesaid.

And forasmuch as great inconveniences may happen to this country by the setting of negroes and mulattoes free, by their either entertaining negro slaves from their masters' service, or receiving stolen goods, or being grown old bring a charge upon the country; for prevention thereof: Be it enacted . . . that no negro or mulatto be after the end of this present session of assembly set free by any person or persons whatsoever, unless such person or persons, their heirs, executors or administrators pay for the transportation of such negro or negroes out of the country.

1705 Be it enacted . . . that all servants imported and brought into this country, by sea or land, who were not christians in their native country, (except turks and moors in amity with her majesty, and others that can make due proof of their being free in England, or any other christian country, before they were shipped, in order to transportation hither) shall be accounted and be slaves, and as such be here bought and sold notwithstanding a conversion to christianity afterwards. . . .

And also be it enacted . . . that all masters and owners of servants, shall find and provide for their servants, wholesome and competent diet, clothing, and lodging, by the discretion of the county court; and shall not, at any time, give immoderate correction; neither shall, at any time, whip a christian white servant naked, without an order from a justice of the peace. . . .

And for a further christian care and usage of all christian servants: Be it also enacted . . . that no negroes, mulattoes, or Indians, although christians, or Jews, Moors, Mohammedans, or other infidels, shall, at any time, purchase any christian servant. . . .

And for a further prevention of that abominable mixture and spurious issue, which hereafter may increase in this her majesty's colony and dominion, as well as by English, and other white men and women intermarrying with negroes and mulattos, as by their unlawful coition with them: Be it enacted . . . that whatsoever English, or other white man or woman, being free, shall intermarry with a negro or mulatto man or woman, bond or free, shall, by judgment of the county court, be committed to prison, and there remain during

the space of six months, without bail or mainprize; and shall forfeit and pay ten pounds current money of Virginia. . . .

And be it further enacted, that no minister of the Church of England, or other minister, or person whatsoever, within this colony and dominion, shall hereafter wittingly presume to marry a white man with a negro or mulatto woman; or to marry a white woman with a negro or mulatto man.

From William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia* (Richmond, 1809), 1: 252–55; 2: 116–17, 170, 260, 270, 481–82; 3: 86–88, 447–49, 453–54.