

Southern “Black Codes” of 1865-66

The end of the Civil War marked the end of slavery for 4 million black Southerners. The war also left them landless and with little money to support themselves. White Southerners, seeking to control the freedmen (former slaves), devised special state law codes. Many Northerners saw these codes as blatant attempts to restore slavery.

The military governors who were placed in power over the former Confederate states gave little thought had been given to the needs of the newly emancipated slaves. Shortly before the end of the war, Congress created the Freedmen’s Bureau. It furnished food and medical aid to the former slaves. It also established schools for the freedmen. By 1870, a quarter million black children and adults attended more than 4,000 of these schools in the South.

The Freedmen’s Bureau also helped the former slaves in the workplace. It tried to make sure that the former slaves received fair wages and freely chose their employers. The bureau created special courts to settle disputes between black workers and their white employers. It could also intervene in other cases that threatened the rights of freedmen.

White Southerners feared that if freedmen did not work for white landowners, the agricultural economy of the South would collapse. During the last months of 1865, a rumor spread among freedmen: The federal government was going to grant “40 acres and a mule” to every ex-slave family on Christmas Day. Although the federal government had confiscated some Confederate lands and given them to freed slaves, it never planned to do this on a massive scale. Nonetheless, expecting their own plots of land, blacks in large numbers refused to sign work contracts with white landowners for the new year. At the same time, Southern whites passed around their own rumor that blacks would rise in rebellion when the free land failed to appear on Christmas Day.

All these economic worries, prejudices, and fears helped produce the first Black Codes of 1865. These codes consisted of special laws that applied only to black persons. The first Black Code, enacted by Mississippi, proved harsh and vindictive. South Carolina followed with a code only slightly less harsh, but more comprehensive in regulating the lives of “persons of color.”

The South Carolina Black Code

South Carolina’s Black Code applied only to “persons of color,” defined as including anyone with more than one-eighth Negro blood. Its major features included the following:

1. Civil Rights

The Southern Black Codes defined the rights of freedmen. They mainly restricted their rights. But the codes did grant black persons a few more civil rights than they possessed before the Civil War. South Carolina’s code declared that “persons of color” now had the right “to acquire, own and dispose of property; to make contracts; to enjoy the fruits of their labor; to sue and be sued; and to receive protection under the law in their persons and property.” Also, for the first time, the law recognized the marriages of black persons and the legitimacy of their children. But the law went on to state that, “Marriage between a white person and a person of color shall be illegal and void.”

2. Labor Contracts

The South Carolina code included a contract form for black “servants” who agreed to work for white “masters.” The form required that the wages and the term of service be in writing. The contract had to be witnessed and then approved by a judge. Other provisions of the code listed the rights and obligations of the servant and master. Black servants had to reside on the employer’s property, remain quiet and orderly, work from sunup to sunset except on Sundays, and not leave the premises or receive visitors without the master’s permission. Masters could “moderately” whip servants under 18 to discipline them. Whipping older servants required a judge’s order. Time lost due to illness would be deducted from the servant’s wages. Servants who quit before the end date of their labor contract forfeited their wages and could be arrested and returned to their masters by a judge’s order. On the other hand, the law protected black servants from being forced to do “unreasonable” tasks.

3. Courts, Crimes, and Punishments

South Carolina’s Black Code established a racially separate court system for all civil and criminal cases that involved a black plaintiff or defendant. It allowed black witnesses to testify in court, but only in cases affecting “the person or property of a person of color.” Crimes that whites believed freedmen might commit, such as rebellion, arson, burglary, and assaulting a white woman, carried harsh penalties. Most of these crimes carried the death penalty for blacks, but not for whites. Punishments for minor offenses committed by blacks could result in “hiring out” or whipping, penalties rarely imposed on white lawbreakers.

4. Other Restrictions

South Carolina’s code reflected the white obsession with controlling the former slaves. It banned black people from possessing most firearms, making or selling liquor, and coming into the state without first posting a bond for “good behavior.” The code made it illegal for them to sell any farm products without written permission from their white employer, supposedly to guard against stealing. Also, blacks could not practice any occupation, except farmer or servant under contract, without getting an annual license from a judge.

Congressional Reconstruction

The Mississippi and South Carolina Black Codes of 1865 provoked a storm of protest among many Northerners. They accused Southern whites of trying to restore slavery. Congress refused to seat Southerners elected under the new state constitutions. A special congressional committee investigated whether white Southern Reconstruction should be allowed to continue.

In the South, the Mississippi and South Carolina Black Codes never went into effect. The Union military governors and the Freedmen's Bureau immediately declared them invalid. Fearing that their self-rule was in jeopardy, the two states revised and moderated their codes. Christmas Day 1865 came without either the free land that freedmen had hoped for or the bloody rebellion that whites had dreaded. Instead, as the new year began, freedmen all over the South signed labor contracts and went back to work.

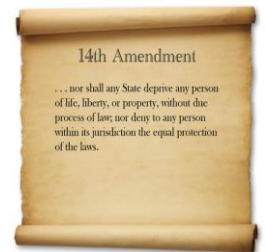
Under the less tense conditions in 1866, most other former Confederate states wrote Black Codes that paid more attention to the legal equality of whites and blacks. But the belated efforts of the white Southerners to treat the freedmen more fairly under the law came too late.

Along with the Black Codes, other events helped alter the course of Reconstruction: The 14th Amendment passed, and a new Congress hostile to the South was elected.

14th Amendment

The 14th Amendment, ratified in 1868, attempted to prevent discriminatory state laws such as those that made up much of the Southern Black Codes of 1865–66. Section 1 of the 14th Amendment reads, in part:

All persons born or naturalized in the United States . . . 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 . . . 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.



"The Southern "Black Codes" of 1865-66." *Southern Black Codes*. Constitutional Rights Foundation. Web. 7 Sept. 2014. <http://www.crf-usa.org/brown-v-board-50th-anniversary/southern-black-codes.html>