

# **Black Code of Presidential Reconstruction v. Lincoln's Proclamation of Amnesty and Reconstruction, 1865-1867**

**Directions:** Read the examples of southern black codes & Lincoln's Proclamation of Amnesty and Reconstruction and complete the following tasks, all of this MUST be done by the end of class:

## **1. Civil Rights**

3 examples of rights granted to freedmen by black codes:

## **2. Labor Contracts**

3 ways labor contracts restricted freedmen'

## **3. Vagrancy**

2 ways the codes defined vagrancy

2 reasons for the vagrancy laws

## **4. Courts, Crimes, and Punishments**

4 examples of racial segregation – explain why each was the case

4 examples of racial double standards – explain why each was the case

5. Do the black codes reflect a white fear of blacks? Support your answer

6. The black codes were intended to re-establish slavery in another form. Assess the validity of this statement, and support your conclusions with evidence from the documents.

7. Lincoln failed to understand the scope and power of white racism in the American South, and as a result was naive in his Reconstruction Policy. Assess the validity of this statement, and support your conclusions with evidence from the documents.

## **Some Black Codes in Louisiana:**

Any negro found drunk, within the said parish shall pay a fine of five dollars, or in default thereof work five days on the public road, or suffer corporeal punishment as hereinafter provided.

No negro who is not in the military service shall be allowed to carry fire-arms, or any kind of weapons, within the parish, without the special written permission of his employers, approved and indorsed by the nearest and most convenient chief of patrol.

No negro shall be permitted to preach, exhort, or otherwise declaim to congregations of colored people, without a special permission in writing from the president of the police jury.

Every negro is required to be in the regular service of some white person, or former owner, who shall be held responsible for the conduct of said negro. But said employer or former owner may permit said negro to hire his own time by special permission in writing, which permission shall not extend over seven days at any one time.

No negro shall be permitted to rent or keep a house within said parish. Any negro violating this provision shall be immediately ejected and compelled to find an employer; and any person who shall rent, or give the use of any house to any negro, in violation of this section, shall pay a fine of five dollars for each offence.

## **Some Black Codes in Mississippi:**

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.

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.

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.

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.

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.

#### **Some South Carolina Black Codes:**

"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"

"Servants shall not be absent from the premises without the permission of the master"

Servants must assist their masters "in the defense of his own person, family, premises, or property"

No person of color could become an artisan, mechanic, or shopkeeper unless he obtained a license from the judge of the district court – a license that could cost \$100 or more.

#### **Some Texas Black Codes:**

**Document:** Chapter LIX, Section 1 . . . 3rd. Persons of color shall not testify, except where the prosecution is against a person who is a person of color ; or where the offence is charged to have been committed against the person or property of a person of color. . . .

Chapter LXXX, An Act regulating Contracts for Labor. SEC. 2. Every laborer shall have full and perfect liberty to choose his or her employer, but when once chosen, they shall be allowed to leave their place of employment, until the fulfillment of their contract, unless by consent of their employer, or on account of harsh treatment or breach of contract on the part of the employer, and if they do so leave without cause or permission, they shall forfeit all wages earned to the time of abandonment.

SEC. 8. In case of sickness of the laborer, wages for the time lost shall be deducted, and, when the sickness is feigned, for purposes of idleness and also, on refusal to work according to contract, double the amount of wages shall be deducted for the time lost and, also, when rations have been furnished, and should the refusal to work continue beyond three days, the offender shall be reported to a Justice of the Peace or Mayor of a town or city and shall be forced to labor on roads, streets and other public works, without pay, until the offender consents to return to his labor.

SEC. 9. [The employee] shall obey all proper orders of his employer or his agent, take proper care of his work-mules, horses, oxen, stock of all character and kind ; also, all agricultural implements; and employers shall have the right to make a reasonable deduction from laborers' wages for injuries done to animals or agricultural implements committed to their care, or for bad or negligent work. Failing to obey reasonable orders, neglect of duty, leaving home without permission, impudence, swearing or indecent language to, or in the presence of the employer, his family or agent, or quarrelling and fighting with one another, shall be deemed disobedience. For any disobedience, a fine of one dollar shall be imposed on, and paid by the offender. For all lost time from work hours, without permission from the employer or his agent, unless in case of sickness, the laborer shall be fined twenty-five cents per hour. For all absence from home without permission, the laborer will be fined at the rate of two dollars per day ; fines to be denounced at the time of the delinquency. Laborers will not be required to labor on the Sabbath, except to take necessary care of stock, and other property on the plantation or to do necessary cooking or household duties, unless by special contract for work of necessity. For all thefts of the laborer from the employer, of agricultural products, hogs, sheep, poultry, or any other property of the employer, or willful destruction of property, or injury the laborer shall pay the employer double the amount of the value of the property stolen, destroyed or injured, one-half to be paid to the employer, and the other half to be placed in the general fund, provided for in this section, No live stock shall be allowed to laborers without the permission of the employer. Laborers shall not receive visitors during work hours. All difficulties arising between the employer and laborers under this section, shall be settled, and all fines imposed by the former ; if not satisfactory to the laborer, and appeal may be had to the nearest Justice of the Peace, and two free holders, citizens, one of said citizens to be selected by employer, and the other by the laborer....

SEC. 10. Laborers, in the various duties of the household, and in all the domestic duties of the family, shall, at all hours of the day or night, and on all days of the week, promptly answer all calls, and obey and execute all lawful orders and commands of the family, in whose service they are employed, unless otherwise stipulated in the contract ; and any failure or refusal by the laborer to obey, as herein provided, except in case of sickness, shall be deemed disobedience, within the meaning of this Act. And it is the duty of this class of laborers to be especially civil and polite to their employer, his family and guests, and they shall receive gentle and kind treatment. Employers, and their families, shall after ten o'clock at night, and on Sundays, make no calls on their laborers, nor enact any service of them which exigencies of the household or family do not make necessary or unavoidable.

Chapter LXXXII. SECTION 1. ...any person who shall persuade, or entice away from the service of an employer, any person who is under a contract of labor to such employer, or any apprentice, who is bound as such, from the service of his master, or who shall feed, harbor, or secrete, any such person under contract, or apprentice who has left the employment of employer or master, without the permission of such employer or master, the

person or persons so offending shall be liable in damages to the employer or master, and shall, upon conviction, be punished by fine, in a sum not exceeding five hundred dollars, nor less than ten dollars, or by imprisonment in the county jail, or house of correction, for not more than six months or by both such fine and imprisonment.

An Act establishing a General Apprentice Law, and defining the obligations of Master or Mistress and Apprentice. SECTION 1. ...It shall be lawful for any minor to be bound as an apprentice, by his or her father, mother or guardian, with their consent, entered of record in the office of the Clerk of the county of which the minor is a resident, or without such consent, if the minor, being fourteen years of age, agree in open Court to be so apprenticed ; Provided, There be no opposition thereto by the father or mother of said minor.

SEC. 2. It shall be the duty of all Sheriffs, Justices of the Peace, and other civil officers of the several counties of the State, to report to the Judge of the County Court of their respective counties, at any time, al indigent or vagrant minors, within their respective counties or precincts, and, also, all minors whose parent or parents have not the means, or who refuse to support said minors ; and thereupon, it shall be the duty of the County Judge to apprentice said minor to some suitable or competent person, on such terms as the Court may direct, having particular care to the interest of said minor.

SEC. 6. That in the management and control of an apprentice, the master or mistress shall have power to inflict such moderate corporeal chastisement as may be necessary and proper.

Chapter XCII. An Act to prohibit the carrying of Fire-Arms on premises or plantations of any citizen without the consent of the owner.

SECTION 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for any person or persons to carry fire-arms on the enclosed premises or plantation of any citizen without the consent of the owner or proprietor other than in the lawful discharge of a civil or military duty and any person or persons so offending shall be fined a sum not less than one nor more than ten dollars or imprisonment in the county jail not less than one day nor more than ten days, or both, in the discretion of the Court or jury before whom the trial is had.

Chapter CXXVIII. An Act to define and declare the rights of persons lately known as Slaves, and Free Persons of Color.

SECTION 1. Be it enacted by the Legislature of the State of Texas, That all persons heretofore known as slaves, and free persons of color, shall have the right to make and enforce contracts, to sue and be sued, to inherit, purchase, lease, hold, sell, and convey real, personal and mixed estate; to make wills and testaments, and to have and enjoy the rights of personal security, liberty, and private property, and all remedies and proceedings for the protection and enforcement of the same and there shall be no discrimination against such persons in the administration of the criminal laws of this State.

SEC. 2. ...nothing herein shall be so construed as to repeal any law prohibiting the inter-marriage of the white and black races, nor to permit any other than white men to serve on juries, hold office, vote at any election, State, county, or municipal; Provided, further, that nothing herein contained shall be so construed as to allow them to testify, except in such cases and manner as is prescribed in the Constitution of the State.

### **The Proclamation of Amnesty and Reconstruction**

#### **BY THE PRESIDENT OF THE UNITED STATES OF AMERICA: A PROCLAMATION.**

WHEREAS, in and by the Constitution of the United States, it is provided that the President "shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment;" and

Whereas, a rebellion now exists whereby the loyal state governments of several states have for a long time been subverted, and many persons have committed, and are now guilty of, treason against the United States; and

Whereas, with reference to said rebellion and treason, laws have been enacted by congress, declaring forfeitures and confiscation of property and liberation of slaves, all upon terms and conditions therein stated, and also declaring that the President was thereby authorized at any time thereafter, by proclamation, to extend to persons who may have participated in the existing rebellion, in any state or part thereof, pardon and amnesty, with such exceptions and at such times and on such conditions as he may deem expedient for the public welfare; and

Whereas, the congressional declaration for limited and conditional pardon accords with well-established judicial exposition of the pardoning power; and

Whereas, with reference to said rebellion, the President of the United States has issued several proclamations, with provisions in regard to the liberation of slaves; and

Whereas, it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States, and to reinaugurate loyal state governments within and for their respective states: Therefore—

I, ABRAHAM LINCOLN, President of the United States, do proclaim, declare, and make known to all persons who have, directly or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:—

"I, \_\_\_\_\_, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by congress, or by decision of the supreme court; and that I will, in like manner, abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the supreme court. So help me God."

The persons excepted from the benefits of the foregoing provisions are all who are, or shall have been, civil or diplomatic officers or agents of the so-called Confederate government; all who have left judicial stations under the United States to aid the rebellion; all who are, or shall have been, military or naval officers of said so-called Confederate government above the rank of colonel in the army or of lieutenant in the navy; all who left seats in the United States congress to aid the rebellion; all who resigned commissions in the army or navy of the United States and afterwards aided the rebellion; and all who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity.

And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such state at the presidential election of the year of our Lord one thousand eight hundred and sixty, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the state existing immediately before the so-called act of secession, and excluding all others, shall reestablish a state government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the state, and the state shall receive thereunder the benefits of the constitutional provision which declares that "the United States shall guaranty to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or the executive, (when the legislature cannot be convened,) against domestic violence."

And I do further proclaim, declare, and make known that any provision which may be adopted by such state government in relation to the freed people of such state, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent as a temporary arrangement with their present condition as a laboring, landless, and homeless class, will not be objected to by the National Executive.

And it is suggested as not improper that, in constructing a loyal state government in any state, the name of the state, the boundary, the subdivisions, the constitution, and the general code of laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new state government.

To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to state governments, has no reference to states wherein loyal state governments have all the while been maintained. And, for the same reason, it may be proper to further say, that whether members sent to congress from any state shall be admitted to seats constitutionally rests exclusively with the respective houses, and not to any extent with the Executive. And still further, that this proclamation is intended to present the people of the states wherein the national authority has been suspended, and loyal state governments have been subverted, a mode in and by which the national authority and loyal state governments may be reestablished within said states, or in any of them; and while the mode presented is the best the Executive can suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable.

Given under my hand at the city of Washington the eighth day of December, A.D. one thousand eight hundred and sixty-three, and of the Independence of the United States of America the eighty-eighth.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State*.