The Mississippi Black Codes (1865)

As Carl Schurz reported, after the Civil War whites in the South sought a system of race relations in which African Americans would be clearly subordinate to whites and would constitute a readily accessible and controllable workforce.

Immediately after the Civil War southern whites wrote or revised vagrancy laws and the old slave codes as a means of establishing the system of race relations they wanted. Following is one of their most famous attempts to codify race relations, the Black Codes passed by the Mississippi legislature.

The Mississippi codes gave blacks rights they had not had before and clearly acknowledged that chattel slavery had ended. The codes recognized the right of African Americans to own property, though not in incorporated towns or cities. (Before the Civil War there were black property owners in Mississippi and even a few black slaveholders, but their legal standing was not clear.) The 1865 codes also recognized marriages among blacks as legal.

Not all the southern states passed comprehensive Black Codes, and some codes were much less stringent than those of Mississippi. South Carolina’s codes differed in that they restricted blacks to buying property in cities or towns.

The creators of the codes drew their ideas from the world in which they lived. Slavery had just ended very abruptly, and the ravages of war were ever present. The men who drafted these codes used the old slave codes from the South, vagrancy laws from the North and the South, laws for former slaves in the British West Indies, and antebellum laws for free blacks. They were also aware that most northern states had laws that discriminated against African Americans and that very few northern states allowed African Americans to vote.

Most of these codes and similar measures were declared void by the Union army officials who were stationed in the former Confederate states. Subsequently, during Reconstruction, the rights of African Americans were greatly expanded.

Source: Excerpt from Laws of Mississippi, 1865, pp. 82ff.
1. CIVIL RIGHTS OF FREEDMEN IN MISSISSIPPI

That all freedmen, free negroes, and mulattoes may sue and be sued... may acquire personal property... and may dispose of the same in the same manner and to the same extent that white persons may: [but no] freedman, free negro, or mulatto... shall rent or lease any lands or tenements except in incorporated cities or towns, in which places the corporate authorities shall control the same. 

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. ... 

[F]reedmen, free negroes, and mulattoes are now by law competent witnesses... in civil cases [and in criminal cases where they are the victims]. 

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... 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. 

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; and said officer and person shall be entitled to receive for arresting and carrying back every deserted employee aforesaid the sum of five dollars. ... 

If any person shall persuade or attempt to persuade, entice, or cause any freedman, free negro, or mulatto to desert from the legal employment of any person before the expiration of his or her term of service, or shall knowingly employ any such deserting freedman, free negro, or mulatto, or shall knowingly give or sell to any such deserting freedman, free negro, or mulatto, any food, raiment, or other thing, he or she shall be guilty of a misdemeanor. ... 

2. MISSISSIPPI APPRENTICE LAW

It shall be the duty of all sheriffs, justices of the peace, and other civil officers of the several counties in this State, to report to the probate courts of their respective counties semi-annually, at the January and July terms of said courts, all freedmen, free negroes, and mulattoes, under the age of eighteen, in their respective counties, beats or districts, who are orphans, or whose parent or parents have not the means or who refuse to provide for and support said minors;... the clerk of said court to apprentice said minors to some competent and suitable person, on such terms as the court may direct, having a particular care to the interest of said minor: Provided, that the former owner of said minors shall have the preference when, in the opinion of the court, he or she shall be a suitable person for that purpose. ... 

In the management and control of said apprentice, said master or mistress shall have the power to inflict such moderate corporal chastisement as a father or guardian is allowed to inflict on his or her child or ward at common law: Provided, that in no case shall cruel or inhuman punishment be inflicted. ... 

3. MISSISSIPPI VAGRANT LAW

That all rogues and vagabonds, idle and dissipated persons, beggars, jugglers, or persons practicing unlawful games or plays, runaways, common drunkards, common night-walkers, pilferers, lewd, wanton, or lascivious persons, in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, misspend what they earn, or do not provide for the support of themselves or their families, or dependents, and all other idle and disorderly persons, including all who neglect all lawful business, habitually misspend their time by frequenting houses of ill-fame, gaming-houses, or tippling shops, shall be deemed and considered vagrants, under the provisions of this act, and upon conviction thereof shall be fined not exceeding one hundred dollars... and be imprisoned at the discretion of the court, not exceeding ten days. 

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. ... 

4. PENAL LAWS OF MISSISSIPPI

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 fire-arms of any kind, or any ammunition, dirk or bowie knife. ...
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.

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.