Laws Regulating Free Blacks in North Carolina Through 1864

1715 - the General Assembly of North Carolina passed "An Act Concerning Servants and Slaves." This act contained twenty-one sections, five of which pertained to free blacks.

- Sections one through thirteen, as well as section nineteen, all specified laws regulating slaves and indentured servants, especially women, while sections fourteen through eighteen aimed to regulate free persons of color (including Native Americans).
- Sections fourteen through seventeen were the first laws of the state to *outlaw miscegenation*. Section fourteen stated that if any white woman, whether servant or free, had a child by any person of color, she would be required by law to pay to the church warden six pounds or be sold into 2 years of servitude. Furthermore,
- section fifteen *empowered church wardens to bind out any children born from a union between a white woman and colored man*, until they become of age 31. It is important to note that only these children were to be bound to age 31, while other children, including legitimate children of color, were to be bound until only age 21.
- Section sixteen stated, ". . . Be It Further Enacted By the Authority aforesaid that no White man or woman shall intermarry with any Negro, Mulatto, or Indyan Man or Woman under the penalty of Fifty Pounds for each white man or woman."
- Section seventeen fined any members of the clergy who performed a marriage between a white person and person of color.
- Section eighteen was the first act passed by the General Assembly *regulating the right of slave owners to set their slaves free*. According to this section, owners could not grant manumission to slaves who previously attempted to runaway. Furthermore, the law stipulated that manumission would only be granted for "honest and faithful" service and that freed slaves must leave North Carolina within six months or face being sold back for an additional five years.

1715 – the General Assembly passed another act, this time making it *illegal for free people of color (including Native Americans) to vote*. This act came about in part from a petition launched in 1705 which complained about servants, free people of color, Jews, and "aliens" voting in the previous election of the General Assembly for the state of North Carolina. In 1776, the state constitution of North Carolina gave back the right to vote to free blacks until a new constitution was written in 1835

1723 – Act passed regarding both *taxables and migration* into and out of the state. The act first deemed any free person of color age 12 or over taxable and also that any white person who married a free person of color became liable under the same law. A petition was filed in the Granville County Court to complain against this law, signed by both free black and white men, including Gibbea Chavis, a free black man, who owned 300 acres of land at one time. , The second part of the law stipulated that if a freed slave, after leaving the state within the required 6 months later returned, they could be apprehended and sold back into slavery for 7 years.

1733 – Act passed regarding the *practice of apprenticeship* offered the only form of relief to free blacks during this time. Before 1733, free blacks could be taken and forced into an apprenticeship against their will. In July 1733, many complaints and petitions came forward concerning free blacks who were either forced into an apprenticeship or forced to remain past the legal age of 21, many forced to stay as long as age 31. As a response to these unethical apprenticeships, Moseley Vail, of the North Carolina House, wrote to the General Assembly that, ". . . these practices are well known . . .." and further wrote, "It is therefore humbly recommended by the said Committee that a vote pass this House declaring the illegality of such a practice and that all such Persons so taken from their Parents or Guardians be returned . . ." Later the same year, the General Assembly agreed with Vail and made such practices illegal.

1741 – An act passed by the state legislature of North Carolina in 1741 *repealed the manumission act of 1715*. Three major points comprised the act of 1741. First, slaves could only be emancipated as a reward for meritorious service. No longer could slaveholders free their slaves as they desired for whatever reason they desired. As its second point, this act required manumitted slaves to leave the state within six months in the same manner as the act of 1715. Finally, if the newly freed slave did not leave the state by the end of the six-month period, they could be sold back into slavery. Unlike the act of 1715, this new act did not limit the length of time for them to serve.

1762 – the General Assembly passed two separate laws, only one of which proved beneficial to free blacks, concerning the practice of apprenticeship. It is worth noting that the laws regarding apprenticeship during the 18th century applied to both white and free black children, unless otherwise noted. The first of the *apprenticeship* acts required apprentice masters or mistresses to ". . . provide for him or her Diet, Clothes, Lodging, Accommodations, fit and necessary; and shall teach or cause him or her to be taught, to read and Write . . .." This is a big step for free black children because without this stipulation, many free black children would not receive an education before reconstruction. The second *apprenticeship* law passed in 1762 upheld previous laws while adding three more stipulations. First, the second law gave county courts the power to bind orphan children with little to no inheritance. Second, and the only difference in the treatment of white and black children, is that all male children were bound to age 21, all black females bound to age 21, and all white females bound to age 18. The third stipulation is that all apprenticeships are now to be treated as indentures. Although free black children in an apprenticeship were taught to read and write, in essence, these apprenticeships could become a virtual form of slavery for the first 21 years of their lives.

1777, 1778 – the General Assembly passed laws that *further restricted manumission* in 1777 and 1778. Both laws upheld earlier laws, but added further restrictions. In 1777, the General Assembly of North Carolina passed an act, which in effect upheld the 1741 act. One of the major differences between the two acts is that the 1777 act called the practice of manumitting slaves "evil and pernicious" and that it "ought at this alarming and critical

Time to be guarded against by every friend and Wellwisher to his country." No doubt, that "critical time" in the law refers to the Revolutionary War. The 1777 law made it so that any free white person could apprehend a freed slave who reentered the state. After apprehension, these freed slaves who reentered the state could then be sold to the highest bidder, with one-fifth of the proceeds given to those who captured the slave. In effect, this gave a reward to the capturers and led to opportune-seeking individuals to capture legal free black citizens, as well as those illegally in the state, in order to make money. Once sold, the new owner could not allow the apprehended slave to hire themselves out. If their new owner allowed them to hire themselves out contrary to the law, the they could again be apprehended and forced to work twenty days of hard labor. Threats posed by the act of 1777, particularly that of apprehension and re-sale, did not constitute mere words. A group of Quakers in the state of North Carolina kept a log of manumitted slaves who fell victim to the act of 1777 from Pasquotank, Perquimans, and Chowan counties. Luckily, the General Assembly later released many of these manumitted slaves on the log.

1778 – the General Assembly saw the error of the earlier law and passed a new law that stipulated that only the Sheriff could apprehend a freed slave who illegally reentered the state. The stipulation of 1778 remained in force as long as slavery existed in the state of North Carolina.

1785 – North Carolina's first attempt at *registering free people of color* came in 1785. Apparently, the cities of Edenton, Fayetteville, Washington, and Wilmington had a problem with slaves attempting to pass as free. As a result, the General Assembly of North Carolina passed an act requiring the registration of free people of color who resided in the towns of previously stated, as well as free blacks who were visiting these four cities for three days or more. As well as registration, free people of color in the four towns were required to wear a patch on their shoulder that said "FREE." It is important to note that this act applied only to Edenton, Fayetteville, Washington, and Wilmington and not to the entire state. Also of notice is that all four towns bordered a major body of water. Fayetteville is on the banks of the Cape Fear River, while Edenton, Washington, and Wilmington are all on the shores of the Atlantic Ocean. A strong possibility exists that slaves in these four towns attempted to escape via these waterways by passing as free. Further evidence of this hypothesis can be seen from a law passed in 1787.

1787 – entitled "An Act to Prevent Thefts and Robberies by Slaves, Free Negroes and Mulattoes," had five major stipulations concerning two different things, but with a similar purpose: a start in preventing contact between slaves and free blacks. The first two sections concern the "entertainment" of slaves and free blacks. First, no slave or free black can be entertained on boats from sundown to sunrise from Monday to Saturday and not at any time at all on Sunday. If any are found, perhaps during a raid or while on patrol, it will be assumed that the slave or free black person is trying to sell stolen goods and the commander of the boat will be fined. Two exceptions existed for the first section: that the slave has a pass from their master allowing them to be there or that the slave or

free black person be employed on the ship. The second section states that free blacks cannot entertain slaves during the said times stated above. The difference in the two sections is how much a white commander will be fined versus a free black. There is no amount stated in the first section, but a free black person will be fined 20 shillings for the first offense and 40 shillings thereafter. The third section to the law made it illegal for a slave and free person of color to marry or cohabitate unless they have the written consent of the slaves master. If the master did not give consent, the free person of color could become a slave for one year. It becomes very clear that the intention of this law is not to prevent theft, but rather to prohibit contact between slaves and free blacks.

1801 – related to *manumission*: required a £100 bond by the slave owner for each slave manumitted.

1830 – Related to *manumission*: in relation to the law of 1801, increased the amount of the bond to £1,000 from £100. In addition, if any slaveholders desired to manumit a slave, this law required them to file a petition with the county court and give public notice six weeks in advance. Section two of this act stipulated that any manumitted slave must leave North Carolina's boundaries within ninety days ". . . and will never return within the State afterwards."

1833 – upheld the 1830 law regarding *manumission*.

1836 – laws regarding *apprenticeships, public preaching, and slave insurrections*. The first of these laws passed gave power to the many county courts to bind out all illegitimate children born to free people of color and all children of free people of color whose parents were not employed in "honest and industrious work." As with earlier apprenticeship laws, all children of free people of color bound out were to remain so until of age 21 and apprenticeship masters were required to teach reading and writing. A new stipulation required apprenticeship masters to pay a $500 bond that said they would not remove their wards from the county in which they resided. Numerous court cases before 1836 in the guardian's court regarded apprentice masters who took their wards either out of the town, county, or even state without permission from the courts or their wards' parents. I believe this law was put in place to prevent that from happening.

The second law of 1836 further restricted contact between free blacks and slaves. The first section made it illegal for any slave or free black person to preach in public or to even officiate as a teacher in a meeting that included slaves. Violation of the first section was punishable by thirty-nine lashes. As its second point, if any free black was found involved in any capacity in a slave insurrection, they would be put to death. I personally believe this is a result of slave insurrections, and particular Nat Turner's Revolt of 1831. Smaller insurrections that occurred in the South during the 1800s were sometimes the result of a conspiracy between slaves and free Blacks. Although I have not found any record specifically stating why this law came about, I do believe that this was brought up as a way to prohibit that from happening in North Carolina.

1861 - Five separate laws: right to bear arms, ownership of slaves, manumission,

- Until 1861, no laws denied free blacks the right to own a gun, as long as it they held a license issued by a county court. This first act took away that right and prohibited county courts from granting licenses to free blacks. Violation of this law could have resulted in a fine of at least $50. It should be noted here that at least one exception was made. For instance, in 1861, the County Court of Robeson County allowed Jack McPherson, a free black man, to own and carry a gun on his own premises for a year and there appears to be no action taken against the county.

- Until 1861, free blacks were allow to buy, sell, own, and manumit slaves. The second law prohibited free blacks from owning slaves or purchasing slaves, including the purchase of family members' freedom. In many cases where free blacks in North Carolina owned slaves, the slaves were family members who had been purchased in order to obtain their freedom. However, their slave spouses and children had to remain slaves because of manumission laws in the mid-1800s made it very difficult to free them. This law made it impossible for free blacks to purchase slaves, even members of their immediate family, for the purpose of manumission. This act does give relief to free Blacks who have already purchased or hired slaves; this law did not apply to them. It did, however, prevent them from purchasing or hiring any more slaves in the future. In a case where a free black man or woman has a spouse or child still a slave because they had not yet saved enough money to purchase them (and hence their freedom), this was indeed a striking blow.

- Yet another blow to slaves hoping for the chance to gain their freedom and possibly join the rest of their family, the General Assembly of North Carolina passed a law in 1861 that made it illegal to manumit a slave by a person's last will and testament and in cases where that was attempted became null and void.

- Perhaps the strangest law passed in North Carolina before and during the Civil War was a law that the General Assembly passed in 1861 allowing all free persons of color to choose their own masters and become slaves. Originally, I thought that perhaps a free Black person in huge debt to another person might enter into a form of slavery as a method to pay off his or her debt; however, under closer examination of the law, it stipulated that there cannot be any outstanding debt with the chosen master. Why a person would choose to become a slave is unfathomable, but it did happen. At least two instances in North Carolina, people chose to become slaves. In Guildford County in 1861, John Phillips and Jenetta Wright both filed petitions to become slaves. It is not clear why these two free blacks chose to become slaves, but a reasonable assumption is that that they were so destitute to that even slavery looked like a good option, since they would at least have food and shelter as slaves. Of all the county papers on slaves and free blacks that I have searched so far, these cases were the only that could be found of a free black person petitioning the court to become a slave.

- The final and longest law of 1861 had eleven points to it, covering four separate topics. The first section of this law was an act to set up a poor house in each county specifically for free people of color. Furthermore, each county was to summon before its court every free person of color within its boundaries and note their name, age, economic status, and whether if willing and able to support their family. If they are found willing and able, then nothing further was needed; however, if they were not willing nor able to support their families, then either the family was sent to the poor house or the children under age 10 were to be bound out. Along with this law,

if the court found a person willing and able to support their family, any of their children age 16-21 were considered taxable and the county courts received the power to assess taxes on these households based on the value of labor. If the court bound out any child, the parents retained the right to file a plea that would prevent the county court from further binding out and for the court to reassess the economic status. Lastly, all previous laws regarding the trading between whites and slaves now applied to trade between whites and free people of color. This meant that whites could no longer buy products or trade with free people of color without the written consent of their employer or the justice of the peace for that county in which they resided. In essence, this act cut off all sources of livelihood of free people of color and relegated status of free blacks to that of slaves. Because they were free, they were not allowed to trade or do business with slaves, but now because they are Black, they can no longer trade or do business with whites.

1863 – the last law passed by North Carolina concerning that of free Blacks before the end of the Civil War was that of 1863. This law regarded punishment for felonies and for manslaughter. This law stated that if any free person of color was found guilty of manslaughter or any felonies, punishment should be public whipping, not to exceed 39 lashes.

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