

37. The Louisiana Slave Code of 1824

Each Southern state regulated the conditions of slavery through codes of law that defined the precarious position of a human being who was also property. Although each state had unique provisions, all shared a common feature in placing the slave completely under his master's control, and in assigning the master the responsibility for his care. The slave could not own property in his own name, or make any civil contract. His position before the courts was seriously limited in every respect: thus, he could not witness against his master, nor could he institute a suit in his own behalf. The law assumed that the master's interests were synonymous with the physical well-being of his slave, and the master's property rights in the slave were assumed to be the slave's appropriate defense from injury from all others.

The fallacy of these assumptions is readily demonstrable, but slavery would not have been slavery without them. There was in fact a ruthless legal consistency in the concept, given that fundamental assumption. There were, for example, two reasons why masters were-reimbursed by the state if their slaves were executed for crime: the slave represented property confiscated and destroyed by the state, of course, but it was also thought necessary to detach the master's pecuniary interest from the slave on trial for offenses against the state. Otherwise masters might obstruct the course of justice. Some, in fact, did encourage slaves to run away in the face of criminal charges that might result in execution. Given the legal circumstances, and the inability of the slave to sue in his own behalf, it followed that most cases involving the abuse of slaves were instituted by the master against some other person, usually the employer or overseer of his slave, for property damages.

The following provisions are from the Louisiana Code of 1824, which came through the French *Code Noir*, and more remotely from the Roman Civil Law. The Louisiana code was less severe than most of the state codes, and is certainly less complete than the Alabama Code of 1852 (document 38). In practice, however, there were more similarities than divergences in the control of slaves throughout the Southern states.

Source: Civil Code of the State of Louisiana Preceded by the Treaty of Cession with France, the Constitution of the United States of America and of the State (Published by a citizen of Louisiana, 1825), pp. 90-94.

ART. 172.—The rules prescribing the police and conduct to be observed with respect to slaves in this State, and the punishment of their crimes and offences, are fixed by special laws of the Legislature.

ART. 173.—The slave is entirely subject to the will of his master, who may correct and chastise him, though not with unusual rigor, nor so as to maim or mutilate him, or to expose him to the danger of loss of life, or to cause his death.

ART. 174.—The slave is incapable of making any kind of contract, except those which relate to his own emancipation.

ART. 175.—All that a slave possesses, belongs to his master, except his *peculium*, that is to say, the sum of money, or moveable estate, which his master chooses he should possess.

ART. 176.—They can transmit nothing by succession or otherwise, but the succession of free persons related to them which they would have inherited had they been free, may pass through them to such of their descendants as may have acquired their liberty before the succession is opened.

ART. 177.—The slave is incapable of exercising any public office, or private trust; he cannot be tutor, curator, executor nor attorney; he cannot be a witness in either civil or criminal matters, except in cases provided for by particular laws. He cannot be a party in any civil action, either as plaintiff or defendant, except when he has to claim or prove his freedom.

ART. 178.—When slaves are prose-

cuted in the name of the State, for offences they have committed, notice must be given to their masters.

ART. 179.—Masters are bound by the acts of their slaves done by their command, as also by their transactions and dealings with respect to the business in which they have entrusted or employed them; but in case they should not have authorised or entrusted them, they shall be answerable only for so much as they have benefitted by the transaction.

ART. 180.—The master shall be answerable for all the damages occasioned by an offence or quasi-offence committed by his slave, independent of the punishment inflicted on the slave.

ART. 181.—The master however may discharge himself from such responsibility by abandoning his slave to the person injured; in which case such person shall sell such slave at public auction in the usual form, to obtain payment of the damages and costs; and the balance, if any, shall be returned to the master of the slave, who shall be completely discharged, although the price of the slave should not be sufficient to pay the whole amount of the damages and costs; provided that the master shall make the abandonment within three days after the judgment awarding such damages, shall have been rendered; provided also that it shall not be proved that the crime or offence was committed by his order; for in case of such proof the master shall be answerable for all damages resulting therefrom, whatever be the amount, without being admitted to the benefit of the abandonment.

ART. 182.—Slaves cannot marry

without the consent of their masters, and their marriages do not produce any of the civil effects which result from such contract.

ART. 183.—Children born of a mother then in a state of slavery, whether married or not, follow the condition of their mother; they are consequently slaves and belong to the master of their mother.

ART. 184.—A master may manumit his slave in this State, either by an act *inter vivos* or by a disposition made in prospect of death, provided such manumission be made with the forms and under the conditions prescribed by law; but an enfranchisement, when made by a last will, must be express and formal, and shall not be implied by any other circumstances of the testament, such as a legacy, an institution of heir, testamentary executorship or other dispositions of this nature, which, in such case, shall be considered as if they had not been made.

ART. 185.—No one can emancipate his slave, unless the slave has attained the age of thirty years, and has behaved well at least for four years preceding his emancipation.

ART. 186.—The slave who has saved the life of his master, his master's wife, or one of his children, may be emancipated at any age.

ART. 187.—The master who wishes to emancipate his slave, is bound to make a declaration of his intentions to the judge of the parish where he resides; the judge must order notice of it to be published during forty days by advertisement posted at the door of the

court house; and if, at the expiration of this delay, no opposition be made, he shall authorise the master to pass the act of emancipation.

ART. 188.—The act of emancipation imports an obligation on the part of the person granting it, to provide for the subsistence of the slave emancipated, if he should be unable to support himself.

ART. 189.—An emancipation once perfected, is irrevocable, on the part of the master or his heirs.

ART. 190.—Any enfranchisement made in fraud of creditors, or of the portion reserved by law to forced heirs is null and void; and such fraud shall be considered as proved, when it shall appear that at the moment of executing the enfranchisement, the person granting it had not sufficient property to pay his debts or to leave to his heirs the portion to them reserved by law; the same rule will apply if the slave thus manumitted, was specially mortgaged; but in this case the enfranchisement shall take effect, provided the slave or any one in his behalf shall pay the debt for which the mortgage was given.

ART. 191.—No master of slaves shall be compelled, either directly or indirectly, to enfranchise any of them, except only in cases where the enfranchisement shall be made for services rendered to the State, by virtue of an act of the Legislature of the same, and on the State satisfying to the master the appraised value of the manumitted slave.

ART. 192.—In like manner no master shall be compelled to sell his slave, but in one of two cases, to wit: the first, when being only co-proprietor of the

1. Between living persons. (Editor's trans.)