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MISSOURI STATE ARCHIVES

Missouri's Early Slave Laws: A History in Documents Laws Concerning Slavery in Missouri Territorial to 1850s

In **1720**, Phillippe Francois Renault brought the region's first black slaves to the lead mining districts of colonial Missouri. The French and Spanish colonial governments enacted stringent black code legislation and, from that time until the Civil War, the lives and activities of black men and women in Missouri were closely governed. Not all was as it seemed, however. Although the legislation is harsh, in reality, some of the laws were never enforced, or, at most, were only used when considered absolutely necessary.

Legal authorization to maintain control of the slave population in Missouri began in the French and Spanish colonial period, dating approximately from **1682 through 1803**. The French implemented the *Code Noir*, or "Black Code," attempting to define the parameters of slavery in the area that later became the state of Missouri. It codified a way of life that separated the races and defined the circumstances under which the free community and slaves, black or Indian, would co-exist. (Indian slavery was common in territorial Missouri; most Indian slaves had been captured during intertribal wars and sold to white traders.)

Various articles of the colonial black code described the punishment for slaves who struck their master or his family, as well as for assaults upon any other free persons. In addition, the code made it unlawful for slaves to leave their master's property without permission, and prohibited slaves from carrying guns or owning property. Authorities designed these laws in order to maintain power in the face of a growing slave population.

The French code did not simply govern slave behavior. Owners also lived under particular guidelines with respect to their slaves. The code instructed them to not torture, mutilate, or kill their slaves, though masters who did so were rarely rebuked. The law also prohibited owners, in the process of selling slaves, to break up a family unit of a husband, wife, and children under the age of fourteen. By not recognizing slave marriages as legal, owners routinely evaded this section of the code. Miscegenation (where people of two different races have a child together) was also absolutely forbidden, though the law was difficult to enforce. The increasing presence of mulattos in the territory proved the ineffectiveness of the law against miscegenation, especially in governing the relationships between white owners and black slave women.

What began with the *Code Noir* of the French and Spanish colonial period continued over a half-century after the United States purchased the Louisiana Territory and eventually carved out Missouri. The black code measures promulgated and retained by these various governments constrained the slave and free black population and theoretically created a near-total system of control. In a slave society, slaveholders considered it necessary to monitor the daily lives of their slaves, thereby subjugating an involuntary labor force, and limit the freedom of free blacks, who might otherwise agitate and create unrest and rebellion among the slaves.

In **1769**, Spanish officials ordered an end to the practice in an effort to create a more agreeable relationship with the territory's Indian tribes.)

After the United States purchased the Louisiana Territory in **1803**, the new territorial government of Missouri immediately instituted black codes, based largely on the code in place in Virginia, and similar in some ways to the French *Code Noir*. The American law made no distinction between slaves and other personal property in the territory.

The territorial legislature approved a section entitled “Slaves,” found in the *Laws of the District of Louisiana*, on **October 1, 1804**. This section codified the laws that black persons in Missouri, whether free or slave, were required to recognize and obey. The law prohibited slaves from leaving their master's property without permission and/or a written pass. Slaves could not own or carry a gun, powder, shot, club, or other weapon. Exceptions were made for those slaves living on a “frontier plantation”; their owner could obtain a license from the justice of the peace allowing the slaves to possess a weapon, presumably for protection against Indians and wild animals, or perhaps for hunting. The black code forbade slaves to take part in riots and unlawful assemblies, or make seditious speeches; all infractions were punishable by public whipping. Other rules in this section affected how slaves traveled between plantations, including how long a slave could remain on another's property and how many visiting slaves were allowed at a particular property at any one time; certain exceptions were applied. Obviously difficult to enforce, slaves and owners frequently ignored this rule with no legal repercussion. To further limit slaves' interaction with free society, the legislature restricted commercial dealings between a slave and a free man, white or black; to do business with a slave required permission of the owner.

Missouri's first general assembly met in **September 1820** at the Missouri Hotel in St. Louis. At that first meeting, the general assembly enacted legislation necessary to make the constitution operative. They also passed statutes governing slavery, measures regulating the activities of free blacks and abolitionists in Missouri, and provisions allowing the pursuit of freedom from slavery. The Missouri legislature inherited the idea for most of these regulations, or “slave codes,” from previous administrative authorities.

In addition, the code included provisions for the free black population, classified as “free people of color.” Although “free persons of color” enjoyed some of the same rights, privileges, and immunities as other free citizens, many laws strictly regulated life for members of this group. Keeping this portion of the population under control meant better overall control over the slave population. Among the articles relating to free blacks, one allowed re-enslavement for various offenses, including the harboring of a runaway slave.

Fearing slave escapes, territorial legislators included provisions designed to decrease these attempts. These conditions put limitations on the activities of slaves and free blacks, placing the responsibility of slave control on the owners. The law considered any black person, free or slave, who conspired to incite a rebellion or commit murder, guilty of a felony; in such instances, the slaves usually received a death sentence. White owners who allowed their slaves to go at large and/or hire themselves out could suffer the loss of the slave through public sale at the courthouse; ignoring the “hiring out” section of this provision brought little consequence. Frequently, slaves engaged in a practice known as “lying out,” wherein they temporarily escaped to the woods or a swamp for a short time. One section of the black code addressed this form of rebellion and allowed the justice of the peace to issue warrants for the apprehension of any slave known to be “lying out.”

Slaveholders assumed most of the responsibility for the conduct of their slaves, but other groups in free society were expected to adhere to the rules of the black code, as well. Legislation outlawed the transportation of slaves by ships or other water vessels unless owners specifically granted their permission. The law imposed a penalty of \$150 for each illegally transported slave; in addition, the master could recover damages, including the market value for a lost or runaway slave, from the ship's captain or ship's owner in court. The law concerning the illegal transport of slaves evolved over time to address issues of “knowing” transport and the need for due care and diligence on the part of the ship's master in ascertaining that no runaways were on board. However, the burden of proof was on the ship's master, and he rarely won appeals.

As with laws concerning slave transport, the legislature frequently passed additions or modifications to the original **1804 code**; most increased monetary punishments and repealed corporal punishments for white offenders. Slaves and free blacks continued to be sentenced to public whippings for various offenses. In **1807**, persons wrongfully held in slavery were allowed to sue for their freedom - a law retained by the Missouri state legislature in **1824** that continued on the books until slavery's end during the Civil War. Hundreds of slaves sued for freedom on the basis of the 1807 law. Many were surprisingly successful, but this positive and hopeful-sounding law was offset by subsequent regulations that created a harsher slave code for daily living.

Missouri statehood became a national controversy as Congress debated the future status of slavery in the land acquired through the Louisiana Purchase. The “Missouri Compromise” allowed Missouri to enter the Union as a slave state and Maine as a free state, thus keeping the balance of slave and free states equal in Congress. Although Missouri entered as a slave state in **1821**, the Compromise outlawed slavery in the remaining portion of the Louisiana Purchase area north of the 36°30' line, Missouri's southern border.

With statehood came new laws regarding black persons, including an **1825** law that prohibited a “free negro or mulatto, other than a citizen of some one of the United States” to “come into or settle in this state under any pretext whatever” (*Laws of the State of Missouri*, 1825, p. 600).

In **1825**, the General Assembly identified a black person as one who had one-fourth part or more of “negro blood” - having three white grandparents and one black grandparent made a person “black” in the eyes of Missouri law and therefore subject to the laws governing slaves or “negroes and mulattos.” That same year, the legislature also directed county courts to appoint patrols to “visit negro quarters, and other places suspected of unlawful assemblages of slaves” (*Laws* , 1825, p. 614).

The 1804 section governing the “lying out” of slaves was repealed in **1825**. In its place, though, was enacted a more stringent chapter, composed of ten sections, exclusive to runaways.

The new statutes allowed any citizen to apprehend a runaway slave and deliver said slave to the justice of the peace. Any slave found more than twenty miles from home or place of employment was considered a runaway. All runaways were committed to the local jail; the sheriff advertised such confinements at the courthouse for one month - after that, the slave was sold for expenses.

Legislators tightened slave laws throughout the **1830s**, primarily with an increase in monetary fines. Masters who allowed their slaves to go at large, hire their own time, or deal as a free person, were fined between \$20 and \$100 for each offense. Laws prohibited selling, bartering, or delivering “vinous or spirituous liquor” to a slave. Masters who allowed the commercial interaction were fined \$300; slaves who sold or delivered alcohol to other slaves could receive up to twenty-five lashes.

In addition to placing more restrictions on slave life, the General Assembly also attempted to prevent abolitionist influence on Missouri slaves. In **1837**, the General Assembly passed an act to “prohibit the publication, circulation, and promulgation of the abolition doctrines.” A conviction subjected the offending person to a maximum fine of \$1000 and two years in the state penitentiary. A second offense brought twenty years in prison; and a third offense translated to a life sentence.

During the **1840s**, legislators amended the “runaway slave” section to include a reward system. Anyone who arrested a runaway slave could receive a \$100 reward if the capture took place outside of Missouri borders and the slave was over the age of twenty. If the capture took place outside the state and the slave was under the age of twenty, the reward dropped to \$50. A capture within Missouri's borders, with no age limit, netted a reward of \$25. Slaves taken up within the county or counties adjoining brought a reward of \$5 to \$10. Now, though, sheriffs were required to advertise about the confinement of slaves for three months rather than just one; no reply meant sale of the slave at public auction. Part of the proceeds paid for boarding expenses and some helped fund the state's university.

Persons who forged a free pass for a slave to facilitate escape, or persons who abducted or enticed slaves to escape risked a five to ten year sentence in the state penitentiary. The same sentence applied to a “free negro” who broke this law. The statute instructed the governor of the state to publish the new act in two newspapers in different parts of the state for three months and then annually thereafter.

Failure to produce a certificate of citizenship meant African Americans were forced to immediately depart from the state; during the **1844-1845** legislative session, legislators added a \$10 fine in addition to the forced departure. Failure to leave the state meant a jail term and ten lashes; statutes allowed up to twenty lashes after **1845**. The law did not affect free blacks passing through the state, or those who gained employment on board various steamers or

other water vessels traversing the state. It also did not change the status of slaves (or their children) who obtained freedom in Missouri through court actions, emancipation, etc. They were not required to leave the state after gaining their freedom.

By **1845**, these patrols had permission to administer up to ten lashes to slaves found “strolling about from one plantation to another, without a pass from his master, mistress, or overseer” (*Revised Statutes of the State of Missouri*, 1845, p. 404). The justice of the peace could direct that up to twenty lashes be administered.

Slave patrols worked at least twelve hours per month, or as many hours as the court appointing it desired; members received twenty-five cents per hour. The patrols were not, however, supposed to prevent slaves from attending Sabbath worship services. Primarily, slave patrols attempted to exert control over the slave community using fear and force. Historians agree that the patrols were probably used sporadically and only at times when white citizens feared rebellion or insurrection.

Although statutes prohibited abolitionist publications in the late 1830s, a decade later, the fear of abolitionist doctrine remained strong. In **1847**, the General Assembly passed an act stating that “No person shall keep or teach any school for the instruction of negroes or mulattos, in reading or writing, in this State.” An uneducated black population made white citizens feel more secure against both abolitionists and slave uprisings, although it probably did little to suppress the desire for freedom. Numerous persons and organizations defied the law. In addition, meetings, religious or otherwise, conducted by other African Americans, were prohibited unless some sheriff, constable, marshal, police officer, etc., was present. Violations could receive a \$500 fine, six months in jail, or both (*Laws 1847*, pp. 103-104).

By **1857**, in the midst of increasing hostility and sectional bitterness over the western expansion of slavery, the General Assembly attempted to pass legislation requiring that all boats and water vessels be chained and locked at night. This was an obvious attempt to limit any means by which slaves might escape to freedom. Failure to comply meant stiff penalties for negligent owners. The law did not pass, although it is evidence of intensified white citizens' fear of the slave's rising temptation to run away and the white community's willingness to take extreme measures to maintain control over Missouri's African American population