

Black Codes

Re-enslavement by Statute — The Legal Architecture of Post-War Racial Control (1865–1866)

CONTENT NOTE: This entry documents the systematic legal re-enslavement of Black Americans through criminal statutes, forced labor, and child removal within months of emancipation.

Track	Persecution
Era	ERA IV — Reconstruction to Jim Crow (1865–1915)
Lens	Secular & Political
Content Warning	Yes — forced labor, child removal, criminal re-enslavement
NC Connection	Yes — NC Black Codes (1865–1866); Cumberland County enforcement
Research Status	Needs citation review
Paired Entry	IV-C2 — They Built the School: FSU Founding (1867)

Within months of the Civil War's end, every former Confederate state enacted Black Codes — statutes designed to re-enslave Black Americans in everything but name. Vagrancy laws criminalized unemployment. Apprenticeship statutes assigned Black children to their former enslavers. Contract labor laws made leaving a white employer a criminal offense. The Thirteenth Amendment had abolished slavery "except as punishment for crime." The Black Codes immediately converted poverty into crime. The exception swallowed the amendment.

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1865–1866 statutes that re-established racial labor control

Vagrancy Statute	Any Black person without a signed annual labor contract was legally defined as a vagrant. Vagrancy was a criminal offense punishable by arrest, fine, and assignment to forced labor. Created a permanent legal obligation to work for a white employer or face criminal prosecution.
Apprenticeship Statute	Courts could "apprentice" Black children — including children of living parents — to their former enslavers, requiring unpaid labor until adulthood. No evidence of parental unfitness required beyond poverty. Systematically removed Black children from their families.
Contract Labor Law	Black workers required to sign annual labor contracts. Breach of contract — including leaving an employer for any reason — was a criminal offense punishable by forfeiture of all wages earned and forced completion of the contract under supervision.
Restrictions on Land Ownership	Black people prohibited from owning or renting agricultural land except in incorporated towns in many counties. Designed to prevent Black economic independence and maintain dependence on white landowners.
Assembly and Movement	Black people required to carry passes when traveling. Unlicensed assembly prohibited. Interaction with white women criminalized. The pass system of the slave codes rebuilt through criminal statute.

HISTORICAL CONTEXT

The Thirteenth Amendment's exception and the legal structure it enabled

The Thirteenth Amendment, ratified December 6, 1865, abolished slavery "except as a punishment for crime whereof the party shall have been duly convicted." The Black Codes were written to exploit that exception with surgical precision. By defining unemployment, vagrancy, and contract breach as crimes, the codes converted the legal status of freedom into a condition that could be revoked through the criminal justice system at the discretion of white sheriffs, white judges, and white juries.

Congressional Reconstruction (1867–1877) suspended the Black Codes and placed the former Confederate states under military rule, extending Black male suffrage and enabling a decade of Black political participation. The Howard School in Fayetteville was founded during this window of Reconstruction possibility in 1867. But Reconstruction ended in a political compromise, federal troops withdrew, and the Black Codes' logic — Black labor as a controllable resource, the criminal justice system as the mechanism of control — was rebuilt through Jim Crow statutes, convict leasing, and disenfranchisement.

“The Black Codes did not fail. They were suspended, rebuilt, renamed, and continued. The Thirteenth Amendment's exception is still in force. The mechanism that exception created is still in operation.”

From Black Codes to convict leasing to Jim Crow to mass incarceration

1865–1866	Black Codes	Vagrancy, apprenticeship, contract labor.
1867–1877	Reconstruction window	Black Codes suspended under military Reconstruction. Black political participation. FSU founded 1867.
1877–1900s	Convict leasing	Black Codes logic rebuilt through convict leasing — imprisoned Black men leased to plantations, mines, and railroads. Conditions worse than slavery.
1896–1965	Jim Crow / Plessy	Segregation made constitutional. Disenfranchisement laws eliminate Black political power. Lynch law enforced racial hierarchy extrajudicially.
1970s–2000s	War on Drugs / Mass incarceration	Drug laws disproportionately policed and prosecuted in Black communities. Mandatory minimums. Three-strikes laws. Prison population explodes.
2026	Present	NC prison population approximately 55% Black in a state 22% Black. Thirteenth Amendment exception still in force. Prison labor still legal.

Green row marks the Reconstruction window — the brief period when the Black Codes were suspended and the Howard School was founded. Red rows mark the bookends: the original Black Codes and their present-day continuation.

NC LOCAL LENS · CUMBERLAND COUNTY / FAYETTEVILLE

North Carolina enacted its Black Codes immediately after the Civil War. In Cumberland County, the same white Democratic political structure that had administered the slave codes administered the Black Codes — the transition was, for the white political class, entirely continuous. The apprenticeship statute was particularly devastating in the Cape Fear region, where formerly enslaved families were separated again through court proceedings that assigned their children to former enslavers without compensation.

The founding of the Howard School in 1867 — by seven Black men with their own money, in a county still organized around Black Code enforcement — is the direct contribution-track response to this persecution-track entry. Both entries describe the same Cumberland County in the same years from two different positions: the state re-enslaving Black labor and a community building the institution that would outlast the state's effort.

CITATIONS · CHICAGO STYLE

- 1 North Carolina General Assembly. "An Act Concerning Negroes and Persons of Color or Mixed Blood," 1866. In Walter Clark, ed. *The Code of North Carolina*. Vol. 2. Raleigh, 1883.

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- 2 Foner, Eric. *Reconstruction: America's Unfinished Revolution, 1863–1877*. New York: Harper & Row, 1988.

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- 3 Wilson, Theodore Brantner. *The Black Codes of the South*. Tuscaloosa: University of Alabama Press, 1965.

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- 4 Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2010.

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- 5 Franklin, John Hope. *The Free Negro in North Carolina, 1790–1860*. Chapel Hill: University of North Carolina Press, 1943.

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PAIRED CONTRIBUTION ENTRY

IV-C2	They Built the School: The Founding of Fayetteville State University (1867) · ERA IV · Contribution
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