

house, in any incorporated city or town, unless such house, or the lot upon which it is situated, be immediately connected with the lot upon which is the usual dwelling-house and residence of the master and employer, and any person who shall offend against the provisions of this article shall be guilty of a misdemeanor, and may be indicted therefor, and on conviction shall be fined in a sum not less than two hundred dollars, nor exceeding one thousand dollars, for the use and benefit of the corporation, if the offence be committed within such, or if not, then as hereafter provided.

ART. 40. No person shall knowingly permit or suffer any slave or slaves not belonging to him, or under his charge, to be and remain in or about his house or kitchen, or upon his premises or plantation, above four hours at any one time, without leave or permission of the owner or employer, and any person who shall do so, shall be liable to be fined by any justice of the peace, in the sum of twenty dollars for every slave so suffered or permitted to remain; but this provision shall not extend to prohibit negroes of the same owner from meeting on their master's premises, nor to cases of negroes sent on business of their master or employer.

#### SECTION IX.

##### Of Dealing with Slaves, and other Offences.

ART. 41. Any person who shall himself, or by his agent, buy, or sell to, or receive from, any slave, any article, thing, or commodity whatever, or any vinous, spirituous or intoxicating liquors, without the written consent or permission of the master, owner, or employer, specifying what articles are permitted to be bought or sold, or permission given in person, shall be guilty of a high misdemeanor, and may be indicted therefor, before any court having cognizance, and on conviction shall be fined in a sum not less than fifty dollars, nor more than five hundred dollars for every offence, for the use of the corporation, if the offence be committed within the limits of any incorporated city or town, or if not, then said fine shall be appropriated as hereafter directed. And it shall be the duty of the mayor or chief magistrate of every incorporated city or town, and of all the subordinate officers of such corporation, to see that this article is vigilantly enforced. And in all cases arising under this article, the burden of proof shall be upon the accused, to show that the consent was given, either in person or in writing.

ART. 42. And in the absence of positive or more conclusive proof of a violation of the preceding article, the following circumstances, or any one or more of them, shall be deemed prima facie evidence, and the onus of proving the consent of the owner or employer shall be upon the accused, and if it be not established by production of the written authority, and proof of its genuineness, or proof of the permission given by the master, owner, or employer in person, the prima facie evidence shall be deemed sufficient, to wit: If any person shall be seen to receive from, or to deliver to any slave, any article or commodity whatever, not manifestly for the use of the master or employer; or if any slave or slaves shall be seen in any store-house,

bar-room, grocery or tippling shop, or other place fitted up and kept for vending articles, or buying the same, after the hour of nine o'clock at night, or before sunrise in the morning, or on the Sabbath day; or if any slave or slaves shall be seen to carry into any such place as above mentioned, any article or commodity suitable or likely to be for sale, and not bring the same out again; or if such slave shall be seen to bring out of such place as above mentioned, any article or commodity received therein, if likely to have been the subject of barter or sale therein; or if any teamster or driver of any wagon, cart or other vehicle, shall be seen to leave his team or vehicle before the door of any shop kept for vending merchandise or groceries, grocery or tippling shop, and to enter the same and there remain for the space of ten minutes; or should be seen to carry into any such place and leave therein, any article or commodity likely to be the subject of sale or barter, or should bring therefrom any article or commodity purchased or received therein; or if any slave should be seen coming out of any such place with ardent spirits or intoxicating liquors, or other article, although sent there for the purpose of obtaining proof; or if any slave should be seen entering such place with any vessel or other thing intended to hold liquids, and should come out with the same containing ardent spirits; or if he should be seen coming out of any house or shop with ardent spirits.

ART. 43. In indictments for the offences of buying from or selling to slaves, it shall not be necessary to charge the kind or quantity of the article or commodity or produce bought, sold or received, nor the name of the slave, and on the trial it shall not be necessary to prove the name of the slave, nor the name of the owner, but it shall be sufficient to charge and prove that such buying and selling, or receiving, was of, to, or from a negro or mulatto. And proof that the person alleged to be the master of such slave, has the control or management of such slave, shall be sufficient evidence of ownership under the provisions of this act.

ART. 44. Nothing in the preceding or succeeding articles of this act, shall operate as a repeal of existing laws so as to discharge any person now charged with a violation of such laws in relation to offences committed by or with slaves, free negroes or mulattoes, but such laws shall continue in force as to such offences until the prosecutions be ended.

#### SECTION X.

##### Offences not capital, committed by Slaves.

ART. 45. No slave shall go from the tenement of his master or employer, or from the place of his employment, without a pass, or some letter or token whereby it may appear that he is proceeding by proper authority; if he does so, any person may apprehend and carry him before a justice of the peace, or the mayor, or chief magistrate of any corporated town, who may order such slave to be punished with stripes not exceeding twenty in number, and any owner or occupant of a plantation, tenement or premises, may lawfully punish any slave found thereon without his consent, and without permission in writing

from the owner or employer of such slave, and not being sent upon lawful business, by inflicting on such slave not more than twenty lashes. And if any slave or free negro shall furnish a pass to any other slave, without the permission or consent of the owner or employer, such offender may be punished therefor by order of any justice of the peace, or mayor or chief magistrate of any town, to the extent of thirty-nine lashes.

ART. 46. No pass or permission to any slave to buy or sell, shall be deemed valid and sufficient authority for such purpose, unless such pass or permission be signed by the master or his agent, or by the employer, or be given in person as provided in Art. 41, and express the articles to be bought or sold, and any slave attempting to use any pass or permission to buy or sell, other than as above expressed, or offering for sale or selling any article or articles without such pass or permission, may be ordered by any justice of the peace, or mayor or chief magistrate of any town, to receive thirty-nine lashes.

ART. 47. It shall be the duty of sheriffs, coroners, constables, justices of the peace and town constables, or marshals, on seeing any slave offering any article for sale, or carrying the same with that intention, without proper permission, to seize from and take all such articles or commodities whatsoever which such slave may have in his possession, without authority to sell, and shall moreover inflict or order to be inflicted on such slave any number of lashes not exceeding thirty-nine, and every such sheriff, constable or other officer, for every failure to enforce this provision shall be deemed guilty of a misdemeanor. And in like manner every citizen, on seeing any slave carrying or offering any article for sale without proper permission, may seize the same to his own use, with the approbation of any justice of the peace, mayor or other chief magistrate of a town, before whom such slave shall be taken, who shall also order such slave to be punished as above in this article directed.

ART. 48. Nothing in this section shall be construed to alter or abolish any fine or penalty incurred for trading or bartering with slaves without permission, as heretofore provided for; and nothing in this act shall be construed to change the right of property in any article which may have been stolen by any slave, and sold or offered for sale.

ART. 49. No slave shall keep or carry any gun, powder, shot, or other weapon whatsoever, except the tools necessary for him to work with, or such as he may be ordered by his master or employer to carry from one place to another; and every gun, powder, shot, or other weapon found in the possession or custody of any slave, may be seized by any person, and upon due proof thereof before any justice of the peace, mayor, or chief magistrate of any town before whom such slave may be taken, such justice or mayor shall order such slave to receive any number of lashes not exceeding thirty-nine, and shall tax the owner of such slave with the costs. *Provided*, nevertheless, that any justice of the peace may grant within his precinct, permission in writing to any slave on the application of his master, to carry and use a gun within the limits of the premises of the master, for a term not exceeding one year, revocable at any time, at the discretion of the justice granting the same.

ART. 50. Slaves shall not be guilty of riots, routs, affrays, unlawful assemblies, trespasses, malicious mischief, seditious speeches, or use

abusive, provoking or insulting language to any person not being a negro or mulatto, or lift his hand in opposition to any person not being a negro or mulatto, unless in self-defence, if wantonly assaulted, and then only so far, as may be necessary to defend himself; and for all or any such offences, the punishment shall be stripes on the bare back of the slave, at the discretion of the court trying the offender, if found guilty.

ART. 51. All meetings or assemblies of slaves, or free negroes or mulattoes mixing and associating with such slaves, above the number of five, including such free negroes and mulattoes, at any place of public resort, or at any meeting-house or houses in the night, or at any school for teaching them reading or writing, either in the day time or night, under whatsoever pretext, shall be deemed an unlawful assembly, and any justice of the peace of the county, or mayor or chief magistrate of any incorporated town, wherein such assemblage shall be held, either from his own knowledge, or on the information of others, may issue his warrant, directed to the proper officer, authorizing him to enter the house where such unlawful assemblage or meeting may be, for the purpose of apprehending the offenders, and dispersing the assemblage; and all slaves offending herein, shall be tried in the manner hereinafter provided for the trial of slaves, and on conviction, shall be punished by not more than thirty-nine lashes on the bare back. *Provided*, that nothing herein contained shall be construed to prevent any master or employer of slaves from giving them permission in writing to go to any place whatever, for the purpose of religious worship, provided such worship be conducted by a regularly ordained or licensed white minister, or attended by at least two discreet and respectable white persons, appointed for that purpose by some regular church or religious society.

ART. 52. If any slave shall feloniously take, steal, and carry away, any goods or chattels under the value of twenty dollars, the slave so offending, being thereof convicted before the court hereinafter established for the trial of slaves, shall be deemed guilty of petit larceny, and the master or employer of such slave shall restore the goods and chattels so stolen, to the owner thereof, or pay him the value thereof, which may be recovered by an action therefor, and the slave so offending, or who shall be accessory thereto before the fact, shall receive any number of lashes on the bare back, not exceeding thirty-nine, and the master or employer shall also pay the costs of prosecution.

ART. 53. Any slave who shall feloniously take, or steal and carry away goods and chattels above the value of twenty dollars, shall be deemed guilty of grand larceny, and such slave, both principal and accessories, shall be tried and punished in the same manner, and to the same extent as for petit larceny, and the goods and chattels so stolen shall in like manner as for petit larceny be restored by the master, if they can be found, or the value thereof shall be paid by him or recovered; (*Provided*, such value shall not exceed the value of the slave or slaves committing such larceny), as in the case of petit larceny, and he shall also pay the costs of prosecution.

ART. 54. Any slave who shall commit an assault and battery on a white person, on conviction thereof, before a court to be organized as hereinafter directed, shall be punished by any number of lashes on the bare back, not exceeding one hundred, at the discretion of the court,

and the master or employer of such slave shall pay the costs of prosecution.

ART. 55. If any slave shall commit an assault on any white person with intent to kill, when implied malice only is shown, such slave on conviction thereof, before the court having jurisdiction thereof, shall receive any number of lashes not exceeding one hundred on each day, for three successive days; but this article shall not apply to an assault upon the master, mistress or employer of such slave.

ART. 56. If any slave shall administer any poison to any domestic animal whatever, or shall maliciously expose any poison or other destructive thing, with the intent that the same shall be taken by any domestic animal, such slave on conviction thereof, shall receive such punishment, not amounting to life or limb, as the triers in their discretion shall adjudge.

#### SECTION XI.

##### Capital Offences by Slaves.

ART. 57. If any slave shall at any time consult, advise or conspire with any other slave, or with any other person whatever, to rebel, or to make insurrection, or shall plot or conspire with any slave or any other person, to murder any free white person, he shall be deemed guilty of felony, and shall be liable to be indicted therefor in the circuit court, and on conviction thereof shall suffer death.

ART. 58. If any slave shall be guilty of the murder of any human being, or shall maim a white person, or shall commit a rape, or attempt to commit a rape, on any white woman, or shall have carnal connexion with any white female child under fourteen years old, with or without her consent, or shall attempt to have such connexion with such female child, or shall be guilty of the manslaughter of any white person, or shall be guilty of maliciously burning or setting fire to any dwelling house, store house, cotton house, gin house, factory house, machine shop or house, or any other house, out-house, barn, stable, crib, mill-house, or other building in use or occupancy, or shall be accessory to any such offence, or if any slave shall be guilty of burglary, some white person being at the time in the house broken, or shall be accessory thereto, or shall be guilty of robbery, or an attempt to commit robbery, or shall commit, or attempt to commit, any other crime made capital by this code, any such slave so offending, shall be indicted in the circuit court, and on conviction, shall suffer death.

ART. 59. If any slave shall commit an assault upon any white person with intent to kill, upon express malice, and not in necessary self-defence, every such slave may be indicted therefor, and on conviction, shall suffer death; but no proof of express malice shall be required to make such assault capital, when the assault with intent to kill is committed by a slave on his master, mistress, overseer or employer, in resistance of legal chastisement.

ART. 60. If any slave shall prepare any poison or destructive thing, with intent that the same shall be taken by any person, and with intent to kill such person, or shall exhibit, or administer any poison, or attempt to administer the same, or any destructive thing, in food,

diet, medicine, or otherwise, to any person, with intent to kill such person, or shall poison any spring, well, cistern, reservoir, or vessel of water, with intent to kill or injure another person, or shall be accessory to any such offence, every slave so offending, shall be deemed guilty of felony, and on conviction thereof, shall suffer death.

ART. 61. If it should appear to the court before which any slave has been tried for a capital offence, and acquitted, that such slave had been guilty of a less offence, not capital, of which, according to the rules of law, he could not be convicted under the indictment, such court may order the slave to be held in custody to be tried by the proper court, for such less offence.

ART. 62. Any negro or mulatto, bond or free, shall be a good witness in pleas of the State for or against negroes or mulattoes, bond or free, or in civil cases when free negroes or mulattoes alone shall be parties, and in no other cases. And the master shall be a good witness for his slave in all criminal cases, notwithstanding his interest. And the court may also take the voluntary confession of the offender.

ART. 63. If any negro or mulatto shall give false testimony in any case where the punishment is death, every such offender, on conviction thereof, shall be ordered by the court before which he was tried, to have one ear nailed to the pillory, and there to stand for one hour, and then the ear to be cut off, and thereafter the other ear to be nailed in like manner, and to be cut off at the expiration of another hour.

And whenever any slave, free negro, or mulatto, shall be called to testify as a witness, it shall be the duty of the court, before he testifies, to charge him to declare the truth in the following manner: "You are brought here as a witness, and I am to tell you before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth, and if it be found hereafter that you told a lie, and gave false testimony in this matter, you must, for so doing, have both ears nailed to the pillory and cut off."

But if the punishment is not death, any such witness who shall give false testimony, shall, upon conviction thereof, receive thirty-nine lashes upon the bare back, which may be repeated any number of days, not exceeding five, at the discretion of the court. And all such witnesses shall be charged thereof by the court, in the same manner as in capital offences.

ART. 64. Whenever any slave shall be accused and put upon trial for any offence for which the punishment is death, and the owner or person having charge of such slave, will not employ counsel to defend him, the court shall assign counsel, and order the owner or employer to pay such counsel any sum not exceeding one hundred dollars, and in the event of the conviction and execution of such slave, and allowance of the value of such slave to the master or owner, the auditor of public accounts, on presentation of a certified copy of the allowance made to such counsel, shall issue a warrant upon the State treasury therefor, and such sum shall be deducted from the amount allowed the master or owner, and in cases of acquittal, and of no allowance to the master or owner, the court shall order execution against such master or owner for such sum; and where there is an acquittal, the same shall be a specific lien upon the slave so acquitted.

ART. 65. When judgment of death shall be passed upon any slave,

there shall be twenty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion.

ART. 66. Any citizen of this State whose slave shall be condemned to die by the sentence of the court having cognizance of the case, and shall be accordingly executed, shall receive one half the value of such slave so executed, out of the treasury of the State. And before sentence shall be passed on any slave found guilty of a capital offence, the court shall direct the sheriff of the county to summon five slaveholders to appear in court, who being first sworn, shall, either by inspection or on evidence, or both, find the value of such slave, and shall certify the value of such slave to the court, and in case of disagreement, the valuation assessed by the majority shall govern, and the auditor, on the presentation of a copy of such finding or valuation, duly certified, shall issue his warrant on the treasury for half the value of such slave, after he has been executed, to be shown by the endorsement of the sheriff on the certificate.

ART. 67. In any indictment against a slave for a capital offence, it shall not be necessary to allege the name of the owner, or to prove the ownership on the trial. And slaves shall be admitted to bail as other persons charged with similar offences, the master, owner, employer, or other person, becoming principal in the recognizance.

## SECTION XII.

### Trial of Slaves for Offences not Capital.

ART. 68. For all offences not charged to be capital, slaves and free negroes shall be tried in the manner following, except in the particular cases wherein another mode of trial is herein expressly provided, that is to say; upon complaint being made to, or information received upon oath, by any justice of the peace, that any crime has been committed by any slave within the county where such justice is empowered to act, said justice of the peace shall, by warrant under his hand, cause such slave to be brought before him by the proper officer, and shall summon one other justice of the peace, and five slaveholders of said county, to associate with him, on a particular day and place to be specified in said summons, not exceeding three days from the issuance thereof, for the trial of said slave, and the said justices, together with the five slaveholders, when so assembled, after an oath shall be administered severally to each of said five slaveholders, to well, truly and impartially try the accused, and decide according to the law, and the evidence adduced and submitted to them on such trial, shall proceed to the examination of the witnesses and other evidence produced on the part of the State, and also on the part of the accused, and upon such trial a majority of said triers shall decide the case so tried by them, and if the offenders shall be found guilty of any crime not capital, punished by the laws of this State, the said justices and slaveholders, or a majority of them, thus trying the offence as aforesaid, shall determine upon the corporeal punishment to be inflicted upon the accused (not extending to the taking away of life or member,) as in their discretion may seem reasonable and just; provided that such punishment

shall not exceed that now prescribed by law, for such offence; and said justices shall thereupon award, and cause execution to be done accordingly.

ART. 69. Upon examination and investigation as aforesaid, if it shall appear to said justices and slaveholders assembled for the trial of any slave as aforesaid, and a majority of them shall be of the opinion, that the slave so tried by them is guilty of any crime punishable with death by the laws of the State, it shall be the duty of the said justices, or one of them, to commit said slave to prison, to be tried by the circuit court of the proper county, and immediately after such commitment of any such slave for trial in the circuit court as aforesaid, said justices or one of them, shall send up and file in the circuit court clerk's office of the proper county, among the papers of the State cases for trial therein, all the evidence taken down by them on the trial of such slave as aforesaid, and shall also recognise the witness or witnesses brought before them on such trial, to appear at the proper time before said circuit court, in the manner now prescribed by law in similar cases of preliminary examination by justices of the peace in this State.

ART. 70. In case either of said justices of the peace shall from any cause fail to attend at the time and place appointed for the trial of any slave as aforesaid, the justice who shall be in attendance for the purpose of such trial, shall forthwith summon some other justice of the peace of the vicinage, to sit and act in the place and stead of such absentee, and in case any of the said five slaveholders, summoned as aforesaid, shall from any cause fail to attend on such trial, said justices shall forthwith proceed to summon another or others, to sit and act in the place and stead of such absentee or absentees.

ART. 71. If any of said slaveholders, summoned to appear and sit on the trial of any slave as aforesaid, shall refuse or fail to attend, he or they shall be fined by said justices, fifty dollars, and unless he or they so fined shall make affidavit, and file the same with the justice by whom the proceedings in the case were commenced, within sixty days after any such trial, stating therein that he or they were prevented from attending on account of the sickness of himself or family, or from accident, or some other unavoidable cause, such fine shall be conclusive. And upon filing such affidavit with said justice within the time aforesaid, said fine shall be remitted, but on failure thereof, said justice of the peace, at the expiration of said sixty days, shall issue execution, and proceed to collect said fine as upon an ordinary execution, and where such fine shall be so collected, said justice shall immediately pay the same into the county treasury.

ART. 72. Whenever any slaves shall be tried under the provisions of this act, for larceny or any other offence involving a pecuniary or other valuable consideration, if such slave shall be found guilty on such trial, said justices and slaveholders, or a majority of them, shall find and certify the amount of money, or value of the thing or things so involved in such offence, and said justices shall cause such finding and certificate to be entered of record.

ART. 73. The said justices or either of them, shall issue and cause to be served, subpoenas for witnesses whenever required, either upon the part of the State or the accused, and such justices or either of them, shall have full power to issue and cause to be executed, attach-



ments to bring witnesses forthwith before them on any trial contemplated by this act; and in case any witness shall be duly summoned, and shall fail, refuse or neglect to attend such trial as a witness, he shall be fined or punished as is prescribed by law in like cases.

ART. 74. Any trial of any slave under the provisions of this act, may be continued from day to day until such trial shall be fully completed, and if from any cause, the trial of any slave under the provisions of this act, shall not be had on the day and at the place appointed for such trial, the same, or any other justice of the peace of the proper county, shall immediately commence other proceedings pursuant to the directions of this act, either upon the original complaint or information made or received on oath as aforesaid, or on another complaint or information received upon oath by such justice of the peace, as the case may require, and proceed in like manner as the original proceedings are directed to be commenced and prosecuted under this act, to final termination.

ART. 75. The justice of the peace commencing proceedings under this act, shall carefully preserve the papers used therein, and shall also keep in a well-bound book, a short record of the proceedings of all cases which shall be commenced and prosecuted before him under the provisions thereof.

ART. 76. If the owner or his agent, of any such slave so tried under the provisions of this act, shall conceive him aggrieved by the decision of said triers, he shall have the right to appeal to the circuit court of the proper county upon such appellant or his agent as aforesaid, entering into bond with good security, payable in the State of Mississippi, in such amount of penalty as said justices, or either of them, may deem sufficient, conditioned for the appearance of said slave so tried, at the next succeeding term of the circuit court of the proper county, and also for the payment of all costs that have or may accrue in the case, in the event said appeal shall be dismissed, or decided against the appellant by said circuit court, and upon taking said appeal, and entering into bond as aforesaid, all further proceedings by or before said justices shall be suspended, and said justices or either of them, shall immediately send up to said circuit court the papers in the case, together with said appeal bond, and a certificate that an appeal was taken in the case, which shall be filed in the office of the clerk of said circuit court, and such appeal shall be tried, disposed of, and decided by said circuit court, in the same way and manner as slaves are now by law tried in said circuit court for similar offences; and in case said appeal shall be dismissed, or decided against said appellant, judgment shall be rendered by said circuit court, against such appellant and his security or securities on said appeal bond, for all costs that shall have accrued in said case, and execution shall issue thereon accordingly.

ART. 77. The same fees and costs shall be allowed and charged by each of said justices of the peace, and by other officers rendering services in proceedings under this act, as are allowed to justices of the peace and other officers acting under them in ordinary State cases.

And each of said five slaveholders serving upon any trial under this act, shall be allowed and paid the same amount per diem and mileage, as is allowed by law to the regular jurors attending on the circuit courts of this State, and said costs and charges shall be collected

and paid in the same way and manner as such costs in other State cases against slaves are now paid and collected in this State.

ART. 78. Before proceeding to try any slave, the court organized as above directed, shall make out in writing a brief statement of the charge against such slave, which shall be carefully preserved, and shall constitute a part of the record in the case.

## SECTION XII.

### Of Free Negroes and Mulattoes.

ART. 79. All free negroes and free mulattoes who are now lawfully residing in this State, under permission granted by act of the legislature, or under license or authority regularly granted in pursuance of law, may continue to reside here on the same terms and conditions required or imposed by the act of the legislature, or other authority, and on failure to comply with the terms and conditions on which the permission or license to remain in the State was granted, the free negro, or free mulatto so failing, shall be deemed and held to be in this State without lawful authority, and shall be dealt with accordingly; *Provided*, that the children of such free negro or mulatto, born after the date of the authority or permission to the parent to remain, may also remain.

ART. 80. It shall not be lawful for any free negro or mulatto, to emigrate to, and become a resident of this State, and if any such should do so, any justice of the peace, on his own knowledge, or on information given to him in writing, may notify such free negro or mulatto to leave the State within ten days after the service of such notice; which notice may be served by a constable or other officer; and if such free negro or mulatto shall fail to comply with such notice, such justice, or any other justice of the peace, may issue a warrant for the apprehension of such free negro or mulatto, and shall commit him to the jail of the county to abide the order of the board of police, which, at any regular term or called meeting, may order such free negro or mulatto to be sold into slavery for life by the sheriff, to the highest bidder, the proceeds after deducting all expenses, to be for the use and benefit of the county. And any free negro or mulatto, who may be in this State without authority or license to remain, at the time of the passage of this act, may be apprehended and sold in the same way.

ART. 81. Every free negro or mulatto who is a resident of this State by virtue of any lawful authority, other than a special act of the legislature, and desiring to remove or travel from one county to another, shall take with him the evidence of his authority to remain in the State, and on failure to do so, may be immediately apprehended by order of the justice of the peace, and committed to jail, and if he should fail to produce his license or authority to remain within sixty days, he may be dealt with as having no authority; *Provided*, this article shall not apply to free negroes or mulattoes travelling with white persons in the capacity of servants.