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A SLAVE EMANCIPATION ACT IN EARLY NORTH ALABAMA

By Henry Marks

Anti-slavery sentiment was evident in the Tennessee Valley in the early days of statehood. James Birney of Huntsville was the most prominent resident of the valley, but there were others, of course, who desired the emancipation of slaves.

The slave code of Alabama was actually developed while the state was part of the Mississippi Territory.¹ An act respecting slaves was passed by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly on March 6, 1805. Provisions included the usual restrictions at that period of history on slave activities. The first few sections of the act prohibited slaves from leaving their owners without a pass, from leaving a plantation without a pass, or carrying offensive or defensive weapons without permission of the owner. Penalties included the use of the lash on the bare back for every such offense. Other sections of the act placed penalties on persons permitting slaves who were not theirs to remain on their plantations, and on both whites and blacks found in company of slaves during unlawful meetings. Section ten provided that if any master or owner of a slave would allow the slave to "go at large and trade as a freeman," the master or owner would have to pay \$50.00, one moiety (meaning half)² going to any person

asking for it and the other moiety going to the territorial government.

Three years later a second and third slave act was passed by the Legislative Council and House of Representatives of the Territory. On December 12, 1812, a fourth act was passed which created the patrol system. Every militia captain or commanding officer of a company was to make a list of all male persons within his district. Even if the male was a newcomer to the area, a resident of less than ten days, he was to be placed on the list. The men on the patrol list were to perform patrol duties, but they could send substitutes.

When Alabama became a state the first legislature passed an act further developing the patrol system and the general regulation of slaves. But what about slave owners who wanted to free their slaves? What were their chances of doing so? Obviously, there were many reasons why both civil authorities and slave owners generally wanted to restrict the freeing of slaves. The first constitution of Alabama specifically stated that the General Assembly of the state had no power to enact legislation providing for the emancipation of slaves without the consent of their owners. However, the legislature was given the power to enact legislation to permit owners to free their slaves, provided rights of creditors of the owners would not be reduced by the emancipation of slaves of an owner. In other words slaves could be freed and at a later time be taken back into slavery to be sold to satisfy claims either in law or equity that were held against the slave owner at the time he freed his slaves. Thus the process of emancipation of slaves was not allowed on a general basis, thereby greatly restricting emancipation. The process would have to be on an individual case basis, a process only guaranteed by state legislative action. Acts of emancipation passed by the legislature also generally provided the guidelines and conditions necessary for

the successful completion of the freeing of slaves.

An excellent example of the process of emancipation by act of the legislature, and the restrictions placed upon emancipation, can be found in an act authorizing Gilbert D. Taylor of Limestone County "to emancipate certain slaves therein named." The act was passed on December 8, 1822, three years after Alabama was admitted to the Union. It is reproduced here as promulgated rather than generally described, not only because it is an excellent example but because it involves people of the Tennessee Valley.

Be it enacted by the Senate and House of Representatives of the State of Alabama, in general assembly convened, That Gilbert D. Taylor, of the county of Limestone, be, and he is hereby authorized to emancipate the following named slaves, to wit: John Rawlins, Jack Lewis, John Fellows, Thener, a woman, all over the age of twenty-one, on the first day of January next; and Fanny, Susan, Nancy, Tom, and George, under that age, so soon as the said Gilbert D. Taylor shall have executed to the judge of the county court of Limestone county, and his successors in office, a bond, with sufficient security, that said John Rawlins, Jack Lewis, John Fellows, Thener, Fanny, Susan, Nancy, Tom, and George, shall never become chargeable to the state of Alabama, or any county or town within the same: Provided, That nothing in this act contained shall be so construed, as to affect the right of the creditors of said Taylor, but that said negroes hereby authorized to be emancipated shall be at all times during their continuance in this state, liable to be taken in execution, and in default of other sufficient property, be sold to satisfy any judgment or decree founded on any contract or claim either in law or equity, now existing against said Taylor: Provided also, That the said negroes hereby authorized to be emancipated, shall remove out of this state within ten months, and shall not return to reside within the same at any time thereafter: Provided also, That the wife of said Taylor shall upon examination by the judge of the county court, apart from her husband, give her free and voluntary consent to the emancipation of said negroes, which consent shall be entered of record in said court.

¹Harry Toulmin, A Digest Of The Laws Of The State Of Alabama: Containing The Statutes And Resolutions In Force At The End Of The General Assembly In January, 1823. (Cahawba: Ginn & Curtis, 1823) contains the slave code of the Mississippi Territory and the state of Alabama from 1805 to January 2, 1823. A copy of this rare work is located in the Zeitler Room of the Huntsville Public Library.

²Joseph E. Worcester, A Dictionary of the English Language (Boston: Hickling, Swan, And Brewer, 1860), 922.