

Chapter 3

Legal Status of the Free Negro

Throughout the South free Negroes were subject to a variety of laws. Various measures prohibited them "from assembling without white supervision, prevented them from holding certain jobs and owning slaves," and curtailed their mobility.¹ In urban areas free nonwhites were liable to curfew and registration rules. In South Carolina free people of color were prohibited "from carrying a firearm without the written permission of their guardian." It was illegal for free nonwhites to keep a still or sell liquor to slaves. After 1834 they were prohibited "from keeping a school to teach slave or free colored children to read and write."² Most southern state legislatures considered enslaving free people of color: an Arkansas law, for instance, provided that "any free Negro in the state by January 1, 1860, would be enslaved."³

¹Berlin, Slaves Without Masters, p. 317.

²Both quotes are from Johnson and Roark, Black Masters, p. 50.

³Ibid., p. 164.

The legal rights of free people of color varied considerably from place to place. Most free Negroes in the South and North were denied the privilege of testifying in court against a white; "they were, in fact, prohibited from even instituting a suit against a white in most states before the Civil War." And yet, "the Creole of color was permitted free access to the courts of law in Louisiana."⁴ Similarly in Mobile free people of color could enter suits against whites and others of their class.

Unlike most free Negroes, those along the Gulf Coast during the colonial period enjoyed the privilege of bearing arms in defense of their homeland. Louisiana outfitted "two complete units of free men of color in New Orleans"; bondsmen were given "the opportunity to defend the territory in exchange for their freedom." This practice, however, was illegal in eighteenth-century Virginia.⁵ A free Negro militia "which had been organized as early as 1778 served with distinction at Mobile and Pensacola."⁶

⁴Gary B. Mills, The Forgotten People: Cane River's Creoles of Color (Baton Rouge: Louisiana State University Press, 1977), p. 200.

⁵Ibid., p. 195. The Virginia law was enacted in 1757.

⁶Jack D. L. Holmes, Honor and Fidelity: The Louisiana Infantry Regiment and the Louisiana Militia Companies, 1766-1821 (Birmingham: n.p., 1965), p. 54. During the Civil War the Creoles de couleur formed a company for the defense of Mobile. See Acts of the Called Session, 1862, and of the Second Regular Annual Session of the General Assembly, 1862 (Montgomery: Montgomery Advertiser Book and Job Office, 1862), p. 162; Mobile Register and Advertiser, December 18, 1862.

Furthermore, the rights of some free people of color in the Mobile area were protected by the federal government, and the state confirmed them. The Louisiana Purchase Treaty of 1803 "guaranteed to free residents of Louisiana and their descendants the rights, privileges and immunities of citizens of the United States."⁷ The Adams-Onís Treaty of 1819, by which Spain renounced claims to West Florida and ceded East Florida to the United States, confirmed that "the inhabitants of the territories ceded to the United States shall be incorporated in the Union of the United States . . . and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States."⁸ The Alabama legislature sometimes made special provisions for free nonwhites. Prior to 1819, for example, it was illegal for any free Negro to sell liquor; in 1822, however, the state legislature allowed free people of color who, by the treaty, became citizens of the United States, or their descendants, to sell liquor.⁹ The Creoles de couleur were also allowed to establish a school.¹⁰

⁷Amos, Cotton City, p. 185. Under the treaty the United States claimed present-day south Alabama. See *ibid.*, pp. 11-13.

⁸Henry Steele Commager, ed., Documents of American History, 4th ed. (New York: Appleton-Century-Crofts, Inc., 1948), p. 224.

⁹Toulmin, A Digest of the Laws of the State of Alabama, pp. 638, 642-43.

¹⁰Amos, Cotton City, p. 185.

Like other cities, Mobile enacted ordinances to regulate its population. City officials were authorized to pass measures "to restrain and prohibit the nightly and other meetings or disorderly assemblies of slaves, free Negroes and mulattoes." Slaves who violated the act could receive up to twenty lashes; the maximum fine for free people of color was fifty dollars, and if unable to pay, they were "to be confined to labour" for a maximum of three months.¹¹ Ship captains were required to report the names and descriptions of free Negroes brought to Mobile from Louisiana, Pensacola, "or any part of the intermediate sea coast, or from the east side of Mobile Bay." The decree stipulated that ship masters should "give bond with good security, in case any of said persons shall be landed"; captains were liable for any costs incurred by the town in the enforcement of the act.¹² About a year later the city passed another ordinance requiring free Negroes to register with the mayor. Free nonwhites who had resided in Mobile for the past three years were to furnish their names, age, height, sex, place of birth, and length of residence in the city; those who failed to register or gave incorrect information were considered vagrants. Free nonresident Negroes who came to Mobile were required to register within

¹¹Acts Passed at the First Session of the First General Assembly, p. 128.

¹²Mobile Gazette and Commercial Advertiser, April 6, 1819.

two days of their arrival. In the late 1820s and early 1830s some free Negroes were convicted of vagrancy and sentenced to hard labor; others who failed to register were fined and had to post bond.¹³ "Any white person, free Negro or mulatto, [who] shall at anytime be found in company with slaves, at any unlawful meeting, or shall harbor or entertain any slave," without the approval of his owner or employer was, upon conviction, to pay a fine "not exceeding twenty dollars."¹⁴

In 1830 Mobile amended a ten-year-old ordinance concerning free people of color. It was necessary for every free Negro who resided in the city to register with the mayor's office within ten days after the passage of the measure. As in the earlier regulation free nonwhites were to provide city officials with the same data required by the previous act. Free nonwhites were supposed "to give good security to keep the peace, and be of good behavior." This ordinance did not apply to free people of color born in the city. Free Negroes who arrived in Mobile were obligated to register within twenty-four hours. The ordinance stated that those who were "not now resident" within the city "and who may hereafter arrive" were not allowed "to go at large" after ten unless they had a pass; those with passes had a

¹³Ibid., April 4, 1820. See, for example, Mayor's Court Records, December 26, 1828, April 6, 1829, April 13, 1830, microfilm reel 8, RG 18, S 1, CMMA.

¹⁴Mobile Commercial Register, May 5, 1826.

curfew of midnight. At least once a year the names and personal data of free Negroes were to be published in the local press. Only one such instance has been found, and that list contained but forty-eight names.¹⁵

The local press supported this measure. Hoping that its enforcement would bring great benefit to the city, one paper stated that the law "will make us better acquainted with the character of our free black population and will tend to its purification, by detecting and expelling the un-trustworthy and vicious." The editorial surmised that no other southern city had been as lenient as Mobile in its regulation of the free people of color. Although the paper did not have "time to comment" on specific provisions, it concluded that they were "seasonable and judicious."¹⁶

Throughout the antebellum years free Negroes were required to register with city officials and post bond. Registration could also serve as evidence that Negroes were free.¹⁷ Failure to comply with this rule was a frequent complaint. A free Negro family, "composed of two or three

¹⁵Ibid., April 20, 1830, contains the ordinance. See *ibid.*, May 15, 1830, for a list of free Negroes who complied with the ordinance. Mobile County records also contain "free papers" of nonwhites. See, for example, Miscellaneous Book A, pp. 135, 197-98, 238.

¹⁶Mobile Commercial Register, April 20, 1830. See also *ibid.*, April 24, 1830, and July 8, 1830, for other regulations.

¹⁷Johnson and Roark, Black Masters, p. 44.

likely mulatto women, a brother and the mother," was brought before the mayor's court on the assumption that they had been illegally residing in the state. The mayor determined that "they had a right to remain" in the city, but, as they had failed to give the necessary bonds, he fined each of them twenty dollars.¹⁸ City officials dismissed a free man of color who had failed to give bond because of a misunderstanding with the city clerk, provided that the free Negro observe the ordinance.¹⁹ After complying with the law, a free woman of color who had relied upon her agent to post bond, a matter that he had neglected, was discharged.²⁰

In the wake of the Nat Turner rebellion, the Alabama legislature like some others in the South enacted restrictive measures regarding nonwhites. Alabama, for example, made it unlawful for "any free person of color to settle within" the state after January 1, 1833. Free Negroes who did move to the state after this date were given thirty days to leave or be inflicted with thirty-nine lashes. If they remained twenty days after having received this punishment, they could be arrested and sold as slaves for one year. Within twenty days after the end of this year

¹⁸Mobile Daily Advertiser, September 13, 1856.

¹⁹*Ibid.*, June 2, 1860.

²⁰*Ibid.*, March 8, 1860. For other incidents see *ibid.*, April 8, 1851, and September 3, 1856.

those free Negroes who still remained in the state could be sold into slavery.²¹

A major test of the anti-immigration laws occurred when the ship Warsaw arrived in the port of Mobile from New York. Its passengers included four free Negroes who, upon their entry into the city, were taken into custody. According to the press, "a parcel of incendiary newspapers published under the auspices of Tappan, or some of his infernal crew," had been found in their possession, "and the impression became somewhat general that they were the accredited agents of this fiend of mischief." The free Negroes had been "dealt with under the city ordinances, and . . . were in close confinement." The paper, fearing the work of such abolitionists as the Tappans and Garrison, warned that "the protection of a gang of fanatic vagabonds in any portion of our common country, inciting the slaves to insurrection, is not to be tolerated, permitted or excused." It considered any interference with the right to property in slaves "not only a palpable infraction but a virtual annihilation of the

²¹Acts Passed at The Thirteenth Annual Session of the General Assembly of the State of Alabama, Begun and Held in the Town of Tuscaloosa, on the Third Monday in November, One Thousand Eight Hundred and Thirty-one (Tuscaloosa: Wiley, M'Guire, and Henry, 1832), pp. 15-16. For other southern states' reactions to Turner's insurrection see Berlin, Slaves Without Masters, pp. 188-89, 202-3, 213.

Federal Constitution."²² Because of conflicting evidence "the fate of the Warsaw passengers remains in doubt."²³

State lawmakers did not appear to consider the Warsaw incident a serious matter, inasmuch as it took them three and a half years to enact legislation to prevent a similar occurrence. The law stated that any free Negro employee on board any vessel was prohibited from entering the state. Harbor masters were required to notify the sheriff of violations of this act and to confine free nonwhites until the vessel left port. Upon leaving, captains were to embark the people of color and to pay expenses for their detention. Maximum penalties for captains included a cash fine of one thousand dollars and six months imprisonment. The justice of the peace was required to record the names and descriptions of violators and to warn them never to reenter the state. If the captain refused or neglected to reboard them, or if they returned, they could be subject to thirty-nine lashes. Free Negroes who remained twenty days after such punishment could be arrested and sold into slavery. The last two sections of the act stated that it was lawful for anyone "to seize and make a slave for life" any free person of color who had arrived in the state after February 1, 1832, or any free Negro found in the state after the

²²Mobile Commercial Register and Patriot, August 21, 1835.

²³Amos, Cotton City, pp. 147-48. See also Boucher, "The Free Negro in Alabama," pp. 126-27.

passage of this act.²⁴ The judiciary committee, however, later suggested that the last two sections of it were "of an ex post-facto character"; therefore, a year later the legislature repealed them.²⁵

After receiving complaints from Mobile, the Alabama legislature further amended the 1839 law. The master of each vessel arriving in Mobile was obligated to furnish a list of every person who "arrived with him," stating names, color, sex, and "whether they be free or otherwise." Upon arrival of any vessel carrying free Negroes, local authorities were authorized "to proceed immediately on board such vessel" and arrest them.²⁶

The free Negro seamen acts of Alabama and those of some other southern states met with protest. More than 150 Boston citizens interested in the nation's commerce and navigation signed a memorial. It stated that many Massachusetts vessels that entered such southern ports as

²⁴Acts Passed at the Annual Session of the General Assembly of the State of Alabama, Begun and Held in the Town of Tuscaloosa, on the First Monday in December, One Thousand Eight Hundred and Thirty-Eight (Tuscaloosa: Hale and Eaton, 1838), pp. 134-36.

²⁵Mobile Daily Commercial Register and Patriot, December 18, 1839; Acts Passed at the Annual Session of the General Assembly of the State of Alabama, 1839, p. 16.

²⁶Mobile Register and Journal, January 18, 1842; Acts Passed at the Annual Session of the General Assembly of the State of Alabama, 1841, pp. 11-12. See also Sellers, Slavery in Alabama, pp. 368-69, and Mobile Register and Journal, January 20, 1842.

Charleston, Savannah, Mobile, and New Orleans employed free Negroes who were "taken from the vessels to which they belong, thrown into prison, and there detained at their own expense." Bostonians argued that such incidents were "greatly to the prejudice and detriment of their interests, and of the commerce of the nation."²⁷ In a letter to the London Times an unidentified citizen opposed the Alabama law because it involved British people. "Through the medium of your widely-circulated journal I wish it to become known," began the letter, "that two of Her Majesty's subjects are at the present time imprisoned in the gaol of Mobile, their only offence being that they are free persons of color." According to the letter, the mayor of Mobile "ordered the seizure" of the free Negroes who were aboard a British ship and incarcerated them for the duration of its stay. "Surely Great Britain will not allow her coloured people to be thus treated," the letter concluded.²⁸

Five days later another unsigned letter appeared in the Times and reported that the Mobile incident was "not a singular one." The author said that when he was in New Orleans in 1843, two free Negroes from a British vessel were arrested and put in jail under a Louisiana law similar to

²⁷U.S., Congress, House, Free Colored Seamen--Majority and Minority Reports, Rep. 80, 27th Cong., 3d sess., 1843, p. 1. See also Henry Wilson, History of The Rise and Fall of the Slave Power in America, vol. 1 (Boston: James R. Osgood and Company, 1872), pp. 576-86.

²⁸Times (London), February 15, 1848.

the Alabama measure. The letter stated that under British and American treaties British seamen were "authorized to enter any port without any reference to their colours," and, therefore, that any state law limiting the effect of a treaty with the United States government may be unconstitutional. "Those who know what the gaol or calaboose of New Orleans is in the month of June when the seamen to whom I refer were confined, will not think it to be a matter of indifference that they should be liable to this treatment," complained the concerned citizen.²⁹ Protest against the treatment of free Negro sailors on board British ships "resulted in the removal of restrictions on free Negro subjects of foreign countries. This relaxation of laws, however, was not extended to free Negroes employed by northern shippers."³⁰

In 1848 the Alabama legislature softened its position on free Negro sailors. The master of any ship with free nonwhite employees entering Mobile Bay could file a bond on condition that they remain on board during the vessel's stay in Alabama waters. The captain was given three days to post bond. Vessels with free people of color on board were not

²⁹Ibid., February 21, 1848. See also Charles O. Paullin and Frederic L. Paxson, Guide to the Materials in London Archives for the History of the United States Since 1783 (Washington, D.C.: Carnegie Institution of Washington, 1914), pp. 69-70, 110-12, 119.

³⁰Boucher, "The Free Negro in Alabama," p. 129. See also Sellers, Slavery in Alabama, pp. 369-70.

to come within three miles of the city, "nor within one mile of the shore (except in passing out of the Bay)."

Communication between free Negroes on board and people ashore was prohibited. "In case of dangerous or serious sickness" free Negroes could receive assistance at the Hospital of the United States.³¹

Despite relaxation of the Negro seamen's law, public protest continued. An editorial in a Mobile paper voiced essentially the same theme as the signers of the Massachusetts memorial: the measure operated "onerously on shipmasters, prejudicially to the commerce of Mobile, and in our judgment, without any corresponding benefit as a measure of police protection." These statutes, the paper stated, were particularly detrimental to small vessels "loading and unloading at our wharves. The effect is to strip the vessel of its crew, as soon as she touches the dock, oblige owners to support the crew in jail, besides losing their labor and to employ other labor" which proved to be costly. The law "shuts out from this port a large trade with the West India

³¹Acts Passed at the First Biennial Session of the General Assembly of the State of Alabama, Begun and Held in the City of Montgomery on the First Monday in December, 1847 (Montgomery: M'Cormick and Walshe, 1848), pp. 130-31. See Works Progress Administration, Interesting Transcriptions from the City Documents of the City of Mobile for 1815-1859, 1939, "Free Negroes Can't Land From Bay." This document records the posting of bond by a master whose vessel brought thirteen free Negro seamen into Mobile Bay. See Mobile Register and Journal, January 10, 1848, for the case against a captain who allegedly brought two free men of color into the state.

Islands, the crews of whose vessels are generally colored, because they cannot afford to pay prison fees, lose their crews and hire labor to replace them at enormous expense." The press advocated that the Alabama legislature amend the law, as some southern states had done with similar laws, to allow free Negro sailors to work on the wharves and to "release our shipping trade from this onerous and unnecessary burden."³²

Few Alabama laws restricted the economic activities of free nonwhites. In 1848, however, it became illegal to use Negro labor, slave or free, in sampling cotton.³³ That section of the law prohibiting Negroes from sampling cotton met with public scrutiny. Many merchants who employed nonwhites trained in this endeavor believed that the regulation interfered "very injuriously with their interests." A Mobile newspaper declared that "it is very doubtful whether the legislature has the right to prescribe what employment Negroes shall be allowed to follow." It

³²Mobile Daily Register, December 19, 1855. See Philip M. Hamer, "Great Britain, the United States, and the Negro Seamen Acts, 1822-1848," Journal of Southern History 1 (Number 1, 1935): 3-28; Philip M. Hamer, "British Consuls and the Negro Seamen's Acts, 1850-1860," ibid., 1 (Number 2, 1935): 138-68; and Franklin, The Free Negro in North Carolina, pp. 69-70, 141. For the response of shipmasters opposing the Negro seamen laws see Mobile Daily Advertiser, February 20, 1856, and March 7, 1856. For an isolated example of free Negro sailors committed to jail see Alabama Planter, August 2, 1847.

³³Acts Passed at the First Biennial Session of the General Assembly of the State of Alabama, pp. 104-6.

feared that the legislature could prohibit them from working in other types of jobs.³⁴ Ten years later the legislature amended the measure to allow "such free persons of color living in the county of Mobile, as are there commonly called and known as Creoles" to sample cotton. Slaves could also perform this work "under the supervision and control of some suitable white person."³⁵

Local authorities occasionally enforced the cotton sampling act. In 1855, for example, twenty-four cases were brought against whites who allegedly allowed Negroes, slave and free, to sample cotton; the majority of white defendants were found guilty.³⁶ In a case that had originated in the criminal court of Mobile County, the Alabama Supreme Court held that a white defendant did not violate the section prohibiting Negroes from sampling cotton because the law was applicable only when the "cotton does not belong to the person employing the slave, or free person of color." "We cannot think the legislature intended to prohibit the use of physical power of the slave," the court declared, "in drawing the cotton from the bale, when he was supervised,

³⁴Alabama Planter, March 20, 1848. See Mobile Register and Journal, August 28, 1848, for more on public opposition.

³⁵Acts of the Sixth Biennial Session of the General Assembly of Alabama, Held in the City of Montgomery, Commencing on the Second Monday in November, 1857 (Montgomery: N. B. Cloud, 1858), p. 60.

³⁶City Court, Criminal Final Record, Cases 1589--2469, pp. 42-44, 47-49, 55-56, 62, 66, 69-70. See also Mobile Daily Advertiser, December 2 and 4, 1855.

and controlled in the act by a responsible free white man."³⁷

The Alabama Supreme Court also ruled on the competency of free people of color as witnesses. William H. Dupree, a white man, had been indicted for the murder of a white man killed in 1858 in north Mobile County. Three of Dupree's mixed children by Clara Chastang were witnesses. Someone informed the solicitor that the children were not qualified to serve as witnesses because they were of mixed blood. The solicitor proposed to examine them "as to the condition of their mother and ancestors." Testimony revealed that Clara's father was a "white man, named Simon Chastang, and her grandmother was Jean Simon, or Seymour; that her mother, who was named Anastasia, was blacker in appearance than her grandmother."³⁸ It was reported that Anastasia was the daughter of a white man named Simon Andry "who always lived with Jean as her husband; [and] that they were called man and wife in Spanish times." A witness declared that "Clara was recognized by everybody as Chastang's child, and her children were by a white man; that these colored women were always free, and owned slaves and other property; and that they were treated as husbands and wives under the Spanish

³⁷Wragg v. The State, 14 Ala. 495, June 1848. See also Alabama Planter, April 10, 1848.

³⁸Dupree v. The State, 33 Ala. 384.

laws."³⁹ The court ruled that Clara's children were incompetent witnesses. It based its decision upon the state code which declared:

Negroes, mulattoes, Indians, and all persons of mixed blood, descended from negro or Indian ancestors, to the third generation inclusive though one ancestor of each generation may have been a white person, whether bond or free, must not be witnesses in any cause, civil or criminal, except for or against each other.⁴⁰

In Alabama free Negroes had the right to enter suit against whites and others of their race. Free people of color evidently received just treatment from the courts and the white jurors. More than half of the ninety-six cases involving free people of color in Mobile County dealt with economic issues--usually in the form of debts--and about fifteen pertained to property ownership. They were also involved in controversies dealing with theft, a broken lease, breach of an agreement, support of illegitimate children, divorce, attempted enslavement, disorderly conduct, and establishment of freedom. Out of forty-two cases in which free Negroes sued whites, eight were dismissed, the judgments in five others have not been located, the free Negroes won twenty-four cases, and white defendants won five times. In thirty-six cases in which whites sued free Negroes, thirteen cases were dismissed, the decisions for five have not been located, free people of

³⁹Ibid., p. 385.

⁴⁰Quoted in Dupree v. The State, 33 Ala. 387.

color won two cases, and whites won sixteen decisions. In the eighteen cases in which free Negroes sued free nonwhites, six were dismissed, the decisions for three have not been located, free Negro plaintiffs won eight cases, and one free nonwhite defendant won one case.⁴¹

In some instances free people of color sued whites who were indebted to them. A free woman of color, for example, who claimed that two men owed her eight hundred dollars, won her case.⁴² Free nonwhite executors also tried to recover money due from whites.⁴³ A free woman of color, acting as guardian of her mixed children, attempted to protect their interests, and sued the prominent white administrator of her "husband's" estate. The circuit court affirmed the decision of a lower court which awarded her one thousand dollars.⁴⁴ A free man of color sued a white man for payment of goods

⁴¹Only one free Negro divorce suit has been located.

⁴²City Court, Final Record and Judgment Book Number 11, Civil Cases 2364--2481, Louise Croize v. Delmas and Rabby, City Court Case 2770, p. 157; City Court, Criminal Minute Book 4, p. 30, November 8, 1855.

⁴³See, for example, Joseph Durette v. Elijah Huntington, Circuit Court Case 12923, Loose Paper File Collection, and Circuit Court, Civil Minutes, 1839-1840, Spring 1840, p. 241.

⁴⁴Justin Laurent v. T. L. Toulmin, Circuit Court Case 2601, Loose Paper File Collection. See Will Book 1, pp. 110-11, for the will of Daniel Juzan who bequeathed the money to his children of color. See also Orphans Court Minutes, Book 1, pp. 225-26.

sold to him and for work done; the court ruled in favor of the white defendant.⁴⁵

White creditors took free nonwhites to court to collect money due. A prominent Mobilian successfully sued a free man of color to recover payment for delivered goods.⁴⁶ A white store owner claimed that a free Negro owed him more than one hundred dollars "for goods, wares and merchandise." The court dismissed the suit, ruling that the free Negro should recover all costs from him.⁴⁷ A Mobile merchant asserted that Polite Collins owed his company payment for personal items. For reasons not given, the parties abandoned the suit; "it is therefore considered by the court," the decree began, "that the plaintiffs take nothing by their action and that the defendant recover of the plaintiffs her costs."⁴⁸ Several years later Collins was

⁴⁵Fermin Trenier v. James Pollard, Circuit Court Case 20316, Spring 1844, Loose Paper File Collection, and Circuit Court, Civil Minutes, 1844-1845, Spring 1844, p. 17, April 26, 1844.

⁴⁶Joshua Kennedy v. John Trenier, free man of color, Circuit Court Case 3047, Loose Paper File Collection.

⁴⁷City Court, Final Record and Judgment Book 10, M. Perryman and Son v. F. Z. Chastang, City Court Case 5448, p. 272; City Court, Minute Book 5, p. 569, June 21, 1859.

⁴⁸Jesse S. Knudler and Company v. Polite Collins, Circuit Court Case 9113, Fall 1836, Loose Paper File Collection; Circuit Court, Civil Minutes, 1833-1837, Fall 1836, p. 449.

involved in a similar case, and by order of the court, this suit was also dismissed.⁴⁹

Free Negroes also filed suits against others of their class. A free man of color sought to recover a debt from the estate of a free Negro, but the two sides reached an agreement without a full court procedure.⁵⁰ John Trenier filed suit against Pierre Registe "to recover the value of a certain quantity of beef and other meats." The circuit court sent the case to arbitration; the defendant was ordered to pay nearly three hundred dollars.⁵¹ Two others were involved in a debt case against each other; the suit was dismissed, however, and the court declared that the defendant should recover costs.⁵²

⁴⁹William Bledsoe and Frederick V. Cluis v. Polite Collins, Circuit Court Case 14924, Loose Paper File Collection; Circuit Court, Civil Minutes, 1840, p. 163, December 15, 1840. No other information on this case has been located.

⁵⁰City Court, Final Record and Judgment Book 12, Cases 5465--6622, C. B. Joseph v. Jeannette H. Collin, City Court Case 5537, p. 71; City Court, Criminal Minute Book 6, 1859-1864, p. 26, December 30, 1859.

⁵¹John Trenier v. Pierre Registe, Circuit Court Case 8025, Loose Paper File Collection.

⁵²City Court, Final Record and Judgment Book 9, M. Dubroca v. Clara Chastang, City Court Case 3798, pp. 167-68; City Court, Criminal Minute Book 4, 1855-1857, p. 450, December 6, 1856.

Two other debt cases involved free people of color who nursed the sick. A free Negro claimed that the estate of a free nonwhite owed him some money for "boarding" and "attending" a family member (the brother of the defendant) "in his last sickness."⁵³ The jury ruled in behalf of the plaintiff.⁵⁴ A free woman of color who nursed a white man "both day and night for the space of thirty-one days" sued to collect the balance she claimed he owed; the jury ruled in her favor.⁵⁵

Some of the court cases involved charges by free Negro landlords that white and Negro tenants failed to pay their rent. A free woman of color sued a white tenant for payment due on a brick house in the city.⁵⁶ A free Negro landlord convinced the court that a white man was in arrears for his rent of a one-story frame tenement.⁵⁷ In a different case the court ruled that a white woman owed payment for renting

⁵³Augustus Nicholas v. Vincent Chavanna, Circuit Court Case 31072, Fall 1860, Loose Paper File Collection.

⁵⁴Circuit Court, Final Record Book, 1859-1860, p. 373, December 5, 1860.

⁵⁵City Court, Final Record and Judgment Book 10, Polite Collins v. H. R. DeReviere, City Court Case 5131, pp. 15-16, June 1858; City Court, Criminal Minute Book 5, p. 292, June 26, 1858.

⁵⁶Michael Prieto v. Sarah Ann Weeding, Circuit Court Case 22600, Spring 1847, Loose Paper File Collection. The decision of the court has not been located.

⁵⁷City Court, Final Record Book 14, John A. Collins v. S. B. Duffield, City Court Case 4725, pp. 433-34; City Court, Criminal Minute Book 5, 1857-1859, p. 101.

property from a free nonwhite.⁵⁸ John Trenier leased a lot and the eastern half of a building which consisted of a two-story brick store and dwelling, with "kitchen, backbuildings, and privies thereto attached." Since the tenant was unwilling to pay an increase in rent, Trenier "made other arrangements for its occupancy" and informed the original tenant to vacate the premises. The lessee, however, refused to leave, and the court decided that he was at fault.⁵⁹ Two free men of color leased a lot to a white man who agreed not only to pay a yearly rent of ninety dollars but also to erect two frame houses "of good materials" on the same property. Should the houses burn, the tenant agreed to rebuild or pay them six hundred dollars. The landlord admitted that the lessee did build the two houses, but after they burned the tenant did not rebuild or pay the sum that the agreement stipulated. A jury decided that the white man violated the terms of the lease.⁶⁰

⁵⁸City Court, Final Record Book 15, Edward Pollard v. John D. Haynie, City Court Case 7923, December 1864, pp. 497-98.

⁵⁹John Trenier v. James Crow, City Court Case 348, Loose Paper File Collection. Trenier also won a similar case. See John Trenier v. Richard G. Ryder, Circuit Court Case, Number unknown, November 1828, Loose Paper File Collection.

⁶⁰City Court, Final Record and Judgment, Cases 7188--7435, Sylvester Andry v. William Austin, City Court Case 7197, pp. 23-25.

In addition to seeking payment of money, free Negroes also sued for title to real property. Members of the Chastang family sought to recover a tract of land in the city of Mobile, claiming that they possessed it before the commencement of the suit. They argued that the defendants unlawfully held the lot.⁶¹ The heirs of a free man of color brought suit against the city for title to a tract of land. A jury ruled in favor of the free Negro family, awarding them the disputed property and a cash settlement.⁶² The decision, however, did not end the disagreement. About three years later the free Negroes informed city officials that they held title to three lots on the public square, and they were willing to sell them to the city. The free people of color maintained that although the city had previously compensated them for two lots, they were "justly entitled to one thousand dollars damages for the detention of the third lot."⁶³ The city resolved that it should appropriate two thousand dollars for the purchase of the controversial three lots, on condition that the free Negroes execute quitclaim

⁶¹Margaret Collins, Chastang, et al. v. Frederick Bromberg, Benjamin Scattergood, and George Gregory, Circuit Court Case 28572, Spring 1857, Loose Paper File Collection. The judgment has not been located.

⁶²Heirs of Collins v. The Mayor, Aldermen, and Common Council, Circuit Court Case 21088, Fall 1845, Loose Paper File Collection; Circuit Court, Civil Minutes, 1845-1847, Fall 1845, p. 114, December 23, 1845.

⁶³Board of Aldermen Proceedings, January 2, 1849, Box 8, Envelope 5, Folder 5, Document 2, CMMA. See also Alabama Planter, January 8, 1849.

deeds and "a deed for the relinquishment of all damages for the detention" of the land.⁶⁴ The parties to the agreement signed the deeds.⁶⁵

Some free Negroes were involved in family disputes concerning ownership of slaves. The grandson of Jane Andry, Maximilian Dubroca, who served as administrator of her estate, sued Sylvester Andry, son of Jane, for "the unlawful taking and wrongful detention" of four bondsmen. As administrator, Dubroca claimed that they were his property.⁶⁶ The two men of color evidently settled their dispute peaceably because Dubroca did not pursue the suit.⁶⁷ Margaret Collins filed suit against Louise Laurendine, her daughter, concerning the ownership of a slave whom Collins believed to be her grandson, the illegitimate child of her son. Mrs. Collins claimed that she conveyed the slave to

⁶⁴Report of the Law and Finance Committee, February 3, 1849, Box 8, Envelope 5, Folder 5, Document 35, CMMA.

⁶⁵Deed Book I, new series, pp. 88-89, 91-93. For another property dispute see Martin Durant v. Polite Collins, et al., Chancery Court Case 1030, Loose Paper File Collection. For other land disputes see Doe ex dem. Chastang v. Dill, 19 Ala. 421, June 1851; Chastang Heirs v. Armstrong, 20 Ala. 609, June 1852; Tannis v. Doe ex dem. St. Cyre, 21 Ala. 449, June 1852; and Bentley et al. v. Cleaveland, 22 Ala. 814, June 1853.

⁶⁶M. Dubroca v. Sylvester Andry, Circuit Court Case 23699, Spring 1849, Loose Paper File Collection.

⁶⁷Circuit Court, Civil Minutes, 1849-1851, p. 53, May 14, 1849. See also Orphans Court Minutes, Book 6, pp. 188-89.

her daughter who, it was hoped, would manumit him.⁶⁸ In a related case, Mrs. Collins maintained that a white man "sent the officers of the guard of the city" to her house and "violently removed from her possession a slave of which she is the owner under the representation that he was a runaway." Evidently this was the same slave that Collins had conveyed to her daughter.⁶⁹ Two weeks before her death, Louise Laurendine decided to settle the dispute with her mother. Louise agreed to convey the slave to her upon condition that she drop the two court cases, pay the costs of both suits, and manumit the slave. Laurendine provided that if the terms of this agreement could not be satisfied before her death, "I will and direct that the said boy Edward shall go to my said mother Margaret Collins."⁷⁰

In some states kidnapping laws were stringent. It was a capital offense in Virginia and North Carolina, "and in Delaware kidnappers could be punished by thirty-nine lashes and have both ears nailed to the pillory for an hour and

⁶⁸Margaret Collins v. Louise Laurendine, alias Madame Benjamin, Chancery Court Case 1373, Loose Paper File Collection.

⁶⁹Margaret Collins v. William C. Griggs, Circuit Court Case 23364, Loose Paper File Collection; Circuit Court, Civil Minutes, 1847-1849, Fall 1848, p. 45.

⁷⁰Will Book 2, pp. 174-77. Collins dropped the case against Griggs within a week after her daughter's will had been probated. The disposition of the other case is not known.

then cut off."⁷¹ In Alabama it was illegal to entice any free person with intent to "cause such person to be sent out of this state against his will" or "to sell such person for a slave." Violators could be sentenced from three to ten years. Anyone who "knowingly" bought or sold a free person for a slave could face imprisonment for a minimum of ten years.⁷²

In Mobile County there is some evidence to suggest that free people of color may have been illegally seized. A free woman of color had been arrested because someone wanted to "reduce [her] . . . to a condition of slavery." She evidently was apprehended on the pretense that she was a fugitive slave. Testimony revealed that since her emancipation by the Alabama legislature about nineteen years before this incident, she had lived "undisturbedly" in Mobile "as a free woman"; that she had "raised a large family of children and grandchildren"; and that the defendants wanted to enslave her. She filed suit to recover damages for assault and battery and for false imprisonment with intent to enslave her.⁷³ The record indicated that the

⁷¹Berlin, Slaves Without Masters, p. 99.

⁷²John J. Ormond, Arthur P. Bagby, and George Goldthwaithe, comps., The Code of Alabama (Montgomery: Brittan and DeWolf, 1852), p. 563.

⁷³Esther King v. Elias Spikes and John W. Spikes, Circuit Court Case 23946, Loose Paper File Collection. The emancipation of King may be found in Acts Passed at the Eleventh Annual Session of the General Assembly of the State of Alabama, Begun and Held in the Town of Tuscaloosa, on the

free woman of color refused to prosecute her suit, and the defendants were to recover their costs.⁷⁴ A free man of color asserted that someone might have stolen his daughter. The advertisement stated: "STOLEN or left my house . . . my daughter ANNETTE, colored, twelve years of age, black complexion, slender made, smiling-face, with bright black eyes." He declared that "it is supposed that she was stolen by some person to sell as a slave," and he offered a one hundred dollar reward "for proof to convict the thief," or twenty-five dollars for her return.⁷⁵ Nearly four years later the same free man of color warned the public against "harboring my girl . . . a dark griffe, about twenty years of age . . . under the penalty of law."⁷⁶

Third Monday in November, One Thousand Eight Hundred and Twenty-nine (Tuscaloosa: M'Guire, Henry, and Walker, 1830), p. 37.

⁷⁴Circuit Court, Civil Minutes, 1849-1851, p. 35, December 5, 1849.

⁷⁵Mobile Register and Journal, November 3, 1847. Other noticeable features and marks were included in the advertisement, which was also supposed to appear in a New Orleans paper.

⁷⁶Mobile Daily Advertiser, August 16, 1851. In 1871 the executor of this man's estate reported that Annette had left Mobile County before the Civil War, and he believed that she had left the state. If she were alive, he thought "that she resides in some one of the western or northwestern states of the United States." Inventory of Isadore Dubroca, Loose Paper File Collection, Number 92.

Mobile authorities sometimes gave people of color opportunity to establish their freedom. London Fenderson, a "quasi free Negro," had been committed as a runaway slave, and it was alleged that he had interfered "with the rights of a white family in the neighborhood of his house." This charge could not be settled until police determined his status. The Negro's attorney "offered to furnish argument" that he was a free person, but "the mayor wanted facts and not argument."⁷⁷ Several days later the city court judge reported that Fenderson had been a slave. (It was also reported that about two years before this case his owner had renounced claim over him, and since that time he had been living in Mobile as a free person.) In Alabama a Negro held as a slave cannot claim any right to freedom, affirmed the judge, unless the legislature or "proceedings" of the probate court grant it; neither of these steps had been taken for Fenderson. He "remains a slave," decided the judge, ruling that the Negro was not a runaway slave and ordered the sheriff to deliver him to his owner who had renounced interest in him.⁷⁸

⁷⁷Mobile Daily Register, August 21, 1859.

⁷⁸Ibid., August 25, 1859. Evidently the disorderly conduct allegation against Fenderson was dropped.

Like whites, free Negroes were charged with committing a variety of illegal acts. Among these included assault and battery, disorderly conduct, assembly with slaves, theft, failure to register and give bond, out after hours, and being illegally in the state. Only two were accused of murder. In nearly 73 percent of the cases free people of color were found guilty, about 15 percent were innocent, and the decisions of the remaining cases were not located.⁷⁹

Theft was a common charge levied against free Negroes. Of some thirty-one cases only two involved grand larceny. In north Mobile County a white man seized a free man of color who illegally possessed some jewelry. The free Negro, denying that he had stolen the items, claimed he had received them from a runaway slave who had taken them.⁸⁰ After a Creole de couleur had been arrested for grand larceny, a local newspaper commented:

it is a remarkable fact, as we heard stated yesterday, that this is the first instance of the arraignment for a serious offence of a creole since the American flag was hoisted in Mobile. If so, it speaks well for the moral training of the children and the early inculcation of the principles of temperance. Our modern reformers

⁷⁹Most of the cases in the following discussion were taken from the original mayor's court records of the 1820s and 1830s, and from newspaper accounts of the same court during the 1850s and 1860s. Some 476 incidents were examined. Reports usually stated the alleged crime and the verdict; few supplied details.

⁸⁰Mobile Daily Advertiser, April 17, 1851.

might perchance learn a useful lesson from these people.⁸¹

After the missing items had been found in his house, the free Negro pleaded guilty. Since several people suggested that he was thought to be insane, the judge delayed sentencing and ordered an investigation. The Creole's "insanity was fully made out, and the jury returned their verdict accordingly."⁸² A white woman who left a free woman of color in charge of her house accused her of stealing articles; the mayor dismissed the incident, calling it a breach of trust.⁸³ A free man of color who had purchased some wood from three slaves (who were later found guilty of stealing the wood) was implicated in the theft. After proving that the master of one of the slaves had authorized the purchase, the court discharged him.⁸⁴ Circumstantial evidence did not convince the mayor to convict a free woman of color accused of stealing some money.⁸⁵ A jury ruled in

⁸¹Alabama Planter, October 9, 1854.

⁸²Ibid., October 3, 1854; Mobile Daily Advertiser, October 17 and 25, 1854. The quotation is from the October 25 issue.

⁸³Mobile Daily Advertiser, September 5, 1856.

⁸⁴Ibid., March 17, 1860.

⁸⁵Mobile Register and Advertiser, April 20, 1864.

favor of a free Negro and against a white man, both of whom had been arrested for stealing a watch.⁸⁶

Few free Negroes were accused of assaulting whites or others of their race. The mayor fined a free nonwhite who had violated his own "good character of twenty-five years' standing" by attacking a white man.⁸⁷ A free man of color allegedly assaulted a Spaniard; the mayor warned the Negro of the consequences of any future misconduct and fined him.⁸⁸ For assault and battery upon a slave a free nonwhite was fined.⁸⁹ The city court found a free man of color innocent of a similar charge upon a white man.⁹⁰

⁸⁶City Court, Final Record and Judgment Book, 1862-1868, Cases 3036--4521, State v. William Carpenter and William, a free boy of color, City Court Case 3330, October 1863, p. 145. For other free Negroes dismissed from theft charges see Mobile Daily Advertiser, June 28, 1855, April 24, 1860, and Mobile Register and Advertiser, February 11, 1864.

⁸⁷Alabama Planter, December 7, 1846.

⁸⁸Ibid., December 21, 1846.

⁸⁹Ibid., August 16, 1847.

⁹⁰City Court, Criminal Final Record and Judgment Book, Cases 1589--2469, Case 2079, State v. Maximilian Dubroca, October 1856, p. 138. For other examples of assault and battery see Alabama Planter, August 16, 1847, Mobile Daily Advertiser, March 5, 1851, May 6 and 18, 1851, and Mobile Daily Register, September 10, 1857.

Breaking curfew was another fairly common charge against nonwhites. City police apprehended a Negro who had been out after hours; his punishment was dependent upon his yet-to-be-determined status.⁹¹ If the man was free he would be fined one hundred dollars or ten days; if he was a slave, he would receive ten lashes. For being out late on a Saturday night and resisting arrest a free nonwhite was fined twenty-five dollars or sentenced to twenty-five days.⁹² Although the police brought in a free man of color for being out after hours, the court discharged him.⁹³ Another was "let off with guardhouse fees" because "he was only fifteen minutes behind time."⁹⁴ For having a "good excuse" for being out after hours, but none for smoking in the street, a free Negro was required to pay only guardhouse fees.⁹⁵ A free nonwhite who had attended the theater after hours without a pass was "discharged with a warning to be provided with one in future or bide the consequences." A slave "caught the same way" received five lashes.⁹⁶ The decision of the mayor involving three slaves arrested for a violation of curfew was also considerate. One of them, who

⁹¹Mobile Register and Advertiser, July 3, 1863.

⁹²Mobile Daily Advertiser, December 1, 1857. For similar cases see *ibid.*, May 24, 1851, and April 28, 1855.

⁹³Mobile Daily Register, January 22, 1858.

⁹⁴Mobile Daily Advertiser, April 17, 1860.

⁹⁵*Ibid.*, June 2, 1859.

⁹⁶*Ibid.*, February 19, 1860.

had a pass but lost it, was discharged. The second claimed he was on his way home from a "prayer meeting" and was dismissed with only guardhouse fees if he had permission from his owner. The third was likewise charged guardhouse fees.⁹⁷

Disorderly conduct was a frequent accusation levied against free nonwhites. Nearly one in four of the studied infractions involved this charge. City guardsmen, for example, brought before the mayor two free Negroes and a Spaniard for "being found at night in the streets and making a noise."⁹⁸ Another free person of color was charged with disorderly conduct at a slave ball, and when asked to leave the free Negro refused.⁹⁹ The mayor fined and ordered a free nonwhite accused of committing "riotous and disorderly conduct" to "give bond and security in the sum of three hundred dollars conditioned that he be of good behavior and that he will not become chargeable to the city for his maintenance for six months." Failure to meet these terms meant sixty days of hard labor in the workhouse.¹⁰⁰

⁹⁷Ibid., March 30, 1860.

⁹⁸Mayor's Court Records, January 22, 1822, microfilm reel 8, RG 18, S1, CMMA.

⁹⁹Ibid., December 26, 1822.

¹⁰⁰Ibid., April 2, 1831.

Free Negroes were sometimes arrested for being intoxicated. The mayor fined one such offender ten dollars.¹⁰¹ A free nonwhite woman was charged with being "drunk and disorderly--very offensively so too" and was fined fifty dollars or thirty days. The court ordered her to post bond "for her future good behavior."¹⁰² A free man of color was "charged with being very turbulent"; police had arrested him "coming out of a grog-shop, noisy and swearing most bitterly." The court ruled against him.¹⁰³ Several years later a citizen filed a complaint against this same man. Although the court ruled that "his general conduct" was "good," he was fined for being intoxicated.¹⁰⁴ Not all free Negroes accused of this offense were punished, perhaps demonstrating the leniency of the court. For instance, a free Negro "only twenty-four hours in the city, had proper documents, but was pretty drunk. He has an excellent character, and was discharged."¹⁰⁵

¹⁰¹Mobile Daily Advertiser, January 18, 1859.

¹⁰²Mobile Daily Register, February 2, 1859.

¹⁰³Ibid., January 6, 1852.

¹⁰⁴Ibid., November 15, 1860. A month later, this same man appeared before the court "to ascertain his status, but was recognized as being all right, and was discharged." Ibid., December 11, 1860.

¹⁰⁵Mobile Daily Advertiser, January 9, 1859.

Few free nonwhites were charged with gambling. Five of six free men of color caught wagering at the race track were each fined fifty dollars, along with a bond of five hundred dollars each. The sixth was "retained as a witness against the rest." Of the nine slaves arrested with them, eight received lashes, and the ninth was discharged.¹⁰⁶ A policeman found four Negroes, two "supposed to be free persons of color" and the others, "known to be slaves," pitching half-dollars. The two slaves were to receive twenty lashes each, and the others, if they were free, were to be fined fifty dollars each.¹⁰⁷ A "reputed free man of color," accused of keeping a gaming table, was later identified as a Creole de couleur. Testimony revealed that he had not been present at the card games, but that he had been with another nonwhite. The jury ruled in his favor.¹⁰⁸

Free Negroes were also the victims of crimes. The number of such reported cases, however, was far fewer than instances involving complaints against them, and the press usually sympathized with white defendants. For example, a white man was arrested for shooting a free person of color; the press commented that the incident did not "appear to

¹⁰⁶Ibid., April 1, 1856.

¹⁰⁷Mobile Daily Register, October 30, 1859.

¹⁰⁸Ibid., January 7, 1859, and February 9, 1859; Mobile Daily Tribune, February 9, 1859. For the case of a free Negro gambling with a white man see Mobile Daily Advertiser, August 12, 1856.

amount to much."¹⁰⁹ A free Negro woman claimed that a white woman had struck her, "but upon inquiry it was found not to amount to much," and the court released her.¹¹⁰ A complaint was filed against a white man who allegedly annoyed a free woman of color "by coming around her house and behaving badly." It was reported that he abused her "shamefully, and jumped on her and beat her, tearing her dress partially off of her, and swearing that he would kill her before he is done with her." The mayor fined him fifty dollars or thirty days, plus bond in the amount of five hundred dollars.¹¹¹

Local authorities occasionally followed different rules for people with mixed ancestry than they did for either whites or other Negroes. The infraction levied against William Rochon, a Creole de couleur, "one of the most ancient of that class of families in our city," was "insolence to two policemen" who had searched his property for a runaway slave. The acting mayor declared that had a white person committed the same offense there would have been no fine, "but for one of the mixed race it is necessary that a proper respect should be shown to the officers of the law." Rochon was fined five dollars.¹¹² A free woman of color was brought in for failing to give bond. "It appears

¹⁰⁹Mobile Daily Advertiser, April 24, 1859.

¹¹⁰Ibid., June 18, 1859.

¹¹¹Ibid., April 6, 1860.

¹¹²Ibid., June 6, 1860.

from the evidence in the case," the record indicated, "that [since] the defendant is descended from a white woman, she is discharged not being subject to the free negro laws."¹¹³

City officials attempted to remove free Negroes whom they believed illegally resided in the state. A free woman of color had been arraigned for failure to give bond, claiming that she had given a police officer her bond payment and that "the failure to comply with law . . . was his neglect."¹¹⁴ The mayor criticized the police because they apparently had not been investigating whether she was in the state illegally.¹¹⁵ A couple of days later it was stated that she had come to Florida in 1821, and she claimed to "belong to the treaty population. It was further stated that the treaty went into operation in Florida in 1803 and in Alabama in 1821." The mayor determined that if that were true she was in Alabama illegally, and she could not be forced to give bonds. Although the case was continued, she was to be notified to leave the state.¹¹⁶

¹¹³Guard House Docket, October 1, 1862--June 30, 1863, p. 243, May 13, 1863, RG 17, S 27, CMMA.

¹¹⁴Mobile Daily Advertiser, April 18, 1860.

¹¹⁵*Ibid.*, April 21, 1860.

¹¹⁶*Ibid.*, April 24, 1860.

Alabama, like other southern states, feared close contacts between free Negroes and slaves. Any free person of color "found at an unlawful assembly of slaves" could be fined twenty dollars. This law did "not apply to, or affect any free person of color, who, by the treaty between the United States and Spain, became a citizen of the United States, or the descendants of such."¹¹⁷ A Mobile ordinance provided "that no free person shall at any time be in the company of or associate with any slave at any lawful or unlawful meeting of such slaves, nor . . . entertain any slave without the consent of the owner."¹¹⁸

Despite legal attempts to prevent relationships between free Negroes and slaves, they did associate with one another. In some instances contact was inevitable. Three free women of color whose husbands were slaves were charged with this offense. One of the slaves had a permit to live apart from his master and with his "supposed wife." The other two men had expired permits, and their owners were to be fined for allowing them to live out without the necessary license.¹¹⁹ The court ruled that permits should not be

¹¹⁷Ormond, Bagby, Goldthwaite, The Code of Alabama, p. 241.

¹¹⁸Alexander McKinstry, comp., The Code of Ordinances of the City of Mobile, with the Charter, and an Appendix (Mobile: S. H. Goetzel and Company, 1859), p. 171.

¹¹⁹Mobile Register and Advertiser, October 30, 1861. Some slaveowners protested about the practice of allowing slaves to live on their own, complaining "of the demoralization produced by it." Ibid.

issued to the slaves.¹²⁰ A free man of color was found guilty of keeping company with slaves in contravention of city regulations.¹²¹ Among some twenty-one Negroes who were accused of being unlawfully assembled together was a free Negro who was fined fifty dollars; the other Negroes (who must have been slaves) were sentenced to fifteen lashes each.¹²² A concerned citizen complained that a free man of color and a number of slaves were "in the habit of congregating around a gentleman's house to his great annoyance." After examining the free Negro's character, the mayor concluded that he was "a pretty good sort of a Negro for a free Negro."¹²³ A young free person of color who had been arrested for associating with slaves was discharged provided that his guardian "send him out of town forthwith."¹²⁴ "A notorious free man of color," charged with associating with slaves, was to be fined unless he could prove his innocence. The newspaper reported that "if, however, the city can get clear of him, permanently, he will be forced to leave."¹²⁵

¹²⁰Ibid., October 31, 1861.

¹²¹Mayor's Court Records, January 3, 1831, microfilm reel 8, RG 18, S 1, CMMMA.

¹²²Mobile Daily Advertiser, January 31, 1851.

¹²³Ibid., May 28, 1859.

¹²⁴Ibid., March 23, 1860.

¹²⁵Mobile Daily Register, October 26, 1859.

The press reported numerous other incidents of the races and classes associating with one another. A free man of color rented a house and subleased the rooms to four Negroes and a white person. The mayor discharged three of the Negroes, two of whom had permits and the third of whom had been ill, and sentenced the fourth to receive ten lashes.¹²⁶ The white tenant, charged with violating "the ordinance respecting slaves," was fined twenty-five dollars. The free Negro, charged with trafficking with slaves, "presented a permit from his agent to rent such a house as he chose." The mayor fined him twenty dollars or twenty lashes.¹²⁷ A white woman who lived in an apartment with Negroes, and "interfered to prevent an arrest," was fined five dollars and ten days imprisonment.¹²⁸ For "marrying a slave girl" a man was fined fifty dollars or thirty days imprisonment and two hundred dollars bond for his future good behavior. A woman was arrested for marrying a slave.¹²⁹ A jury found a white woman guilty of living with a slave.¹³⁰ A white woman "found in bed with a free Negro" was considered "the very worst kind of a vagrant" and was

¹²⁶Mobile Daily Advertiser, July 3, 1856.

¹²⁷Ibid., July 9, 1856.

¹²⁸Ibid., July 10, 1856.

¹²⁹Ibid., August 21, 1856.

¹³⁰City Court, Criminal Final Record Book, 1854-1858, Cases 1589--2469, State v. Susan Heart, City Court Case 2060, June 1856, p. 127; City Court, Criminal Minute Book 4, p. 314.

ordered to pay a bond of five hundred dollars for her future good behavior or leave town.¹³¹ After a month's stay in jail, the free man of color was released, and "a bond of five hundred dollars was required of him as a dangerous and suspicious personage." The press remarked that "the couple should have been tied together and publicly drummed out of town."¹³²

The treatment accorded free Negroes varied considerably. In the lower courts city officials considered their reputation and did not always decide cases strictly. The mayor fined a free man of color fifty dollars or thirty days for associating with a female slave on her master's property, but the mayor disregarded an infraction of the law requiring a 10:00 p.m. curfew.¹³³ A free Negro who had been charged with breaking curfew was fined only for guardhouse fees because he "proved a good character."¹³⁴ The mayor dismissed a free man of color who was found with slaves because "his association was accidental, and at the house of

¹³¹Mobile Daily Advertiser, February 21, 1860. Four months before this incident the same free man of color had been fined for associating with slaves. See Mobile Daily Register, October 26, 1859.

¹³²Mobile Daily Register, March 21, 1860. For the case of a free man of color and a white woman accused of adultery see *ibid.*, April 5 and 6, 1859.

¹³³Mobile Daily Advertiser, June 28, 1860.

¹³⁴*Ibid.*, April 3, 1860.

a Creole."¹³⁵ A free woman of color accused of associating with a slave was discharged because the complainant appeared to be "extra officious."¹³⁶ A white man who was a "gamekeeper of the tenpin alley" was charged with "rolling tenpins" with a Negro. It was shown that the Negro, although he was not a Creole de couleur as described in the Adams-Onis Treaty, was considered by many to be one; the mayor levied a reduced fine upon him.¹³⁷

No evidence has been found to suggest that free Negroes in Mobile County instigated widespread slave revolts. In an isolated incident, however, a free man of color had been accused of attempting to raise an insurrection among the slave population. It was reported that slaves often congregated at his house where his son, "a fellow tolerably well educated," would read to them. After the son's sessions, the father preached to them about the subjects they had just learned. The elder free Negro "asserted that the time would come when the Negroes would be as good as white folks, be allowed to vote, and be on terms of as perfect equality with them here as in Heaven." Although the evidence was not deemed sufficient to convict him, it was decided that he was "a dangerous and suspicious character"; he was given thirty days to leave the state. In default of

¹³⁵Ibid., August 21, 1860.

¹³⁶Ibid., November 1, 1860.

¹³⁷Ibid., June 18, 1856.

five hundred dollars bond for his good behavior, he was temporarily incarcerated.¹³⁸

In Alabama it was illegal to persuade "any slave to leave his master's service, with the intent to go to a state or country where such slave may enjoy freedom, although such slave may not leave his master's service." This offense does not seem to have been widespread; few cases were reported. A free man of color and a slave who were indicted for enticing a slave to run away were found guilty of this wrongdoing; the slave was sentenced to twenty-five lashes a day for four consecutive days, and the free Negro received an eight-year term of hard labor at the state penitentiary.¹³⁹ "Considering the gravity of the offense," the press remarked, "one cannot help being amazed at the lenity of the laws, which seems to invite rather than punish this class of offences."¹⁴⁰ Three other persons who allegedly harbored and enticed slaves from their owners were "discharged after a lengthy hearing."¹⁴¹

¹³⁸Ibid., August 30, 1856.

¹³⁹The quotation is from Ormond, Bagby, Goldthwaite, The Code of Alabama, p. 568; City Court, Final Record and Judgment Book, 1862-1868, Cases 3036--4521, State v. Sylvester, a free man of color, and Joe, a slave, City Court Case 3535, February 1865, p. 270.

¹⁴⁰Mobile Register and Advertiser, February 22, 1865.

¹⁴¹Ibid., March 1, 1865.

Negroes sometimes protected members of their race from local authorities. For allegedly harboring a runaway female slave, police arrested an old Negro man who claimed he was free. The court could not rule on the case until it determined the status of the man.¹⁴² A free woman of color accused of concealing a runaway slave was required to pay bond. A jury convicted two free Negroes for harboring a runaway slave and sentenced them to two years in the penitentiary, but the judge granted them a new trial.¹⁴³ A jury ruled that a free nonwhite was not guilty of this offense, and the Negro was discharged.¹⁴⁴ A Negro woman, "legally a slave, but equitably free," was convicted of harboring a slave and given the option of leaving the state or receiving thirty-nine lashes.¹⁴⁵ A free man of color accused of harboring a slave was let go.¹⁴⁶

¹⁴²Mobile Daily Advertiser, December 9, 1857.

¹⁴³Ibid., March 6, 1859.

¹⁴⁴City Court, Criminal Minute Book 1, State v. Jordon Lynch, March 1848, pp. 14, 26; ibid., June 1848, p. 26, June 12, 1848.

¹⁴⁵Mobile Daily Register, January 8, 1859.

¹⁴⁶Ibid., December 3, 1859. It is not known why he was dismissed.

On the other hand, free people of color sometimes turned to the law in order to apprehend their slaves. Two were indicted for the murder of a bondsman belonging to Zeno Chastang.¹⁴⁷ For one of the defendants, the solicitor "entered a nolle prosequi on the part of the state."¹⁴⁸ The case of the other slave, also owned by Chastang, resulted in a mistrial, the jury unable to agree upon a verdict.¹⁴⁹ Nearly three months later a verdict of not guilty was reached.¹⁵⁰ Other infractions committed by slaves who were owned by free people of color included living out without a permit and obstructing the street with a cab.¹⁵¹

The Alabama legislature and Mobile city officials enacted measures to control the nonwhite population. Restrictions were designed to curtail their activities, such as prohibiting free Negro sailors from coming ashore. Laws limited mobility, not only prohibiting them from entering the state but also imposing curfew rules upon them. In addition, free Negroes were required to register with local officials. Some laws were supposed to limit associations between slaves and free nonwhites since it was assumed that

¹⁴⁷Mobile Daily Advertiser, October 17, 1854.

¹⁴⁸Ibid., November 29, 1854.

¹⁴⁹Ibid., November 30, 1854.

¹⁵⁰Ibid., February 20, 1855.

¹⁵¹Guard House Docket, December 1, 1859--June 1, 1860, pp. 150, 157, RG 17, S 27, CMMA.

free Negroes were a threat to the institution of slavery. For economic reasons some regulations met with protest on the local, national, and international level.

Having access to the courts was a privilege free Negroes enjoyed. They instituted suits against whites and other free people of color and enjoyed some success in their claims. Whites, of course, also filed complaints against them. Most cases dealt with economic issues; others pertained to title of land, ownership of slaves, and establishing status. Free nonwhites allegedly committed a variety of crimes, including disorderly conduct, gambling, failure to register, theft, and assembling with slaves. Few free people of color were charged with such serious offenses as murder, grand larceny, rape, and insurrection. In the lower courts not all were found guilty, though many were; they did have the opportunity to prove their innocence. It appears that the judges and jurors were considerate in their treatment of free people of color, because they weighed circumstances and personal characteristics and did not solely rely upon the facts.

Some free nonwhites received special consideration in the enjoyment of their rights. The Creoles de couleur were protected by the federal government under the terms of the Louisiana Purchase Treaty and the Adams-Onis Treaty. Among the state's free nonwhites, the colored Creoles of the Mobile area were the only ones who could legally sell

liquor, attend school, and assemble with slaves. As in their social activities, so too in their legal affairs, the free colored Creoles of Mobile were set apart from others of their caste in much the same fashion as were their counterparts in the Cane River area of Louisiana.