

“WHAT’S PAST IS PROLOGUE”:  
NORTH CAROLINA’S FORGOTTEN BLACK CODE

by

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## ABSTRACT

JOHN THOMAS WARLICK, IV. “What’s Past is Prologue”: North Carolina’s Forgotten Black Code. (Under the direction of DR. JOHN DAVID SMITH)

Between late 1865 and early 1867, after the South’s failure to preserve slavery through armed conflict, lawmakers in eleven southern states enacted racially repressive legislation with the intention of codifying a hierarchical caste system reminiscent of their abolished “peculiar institution.” Those so-called “black codes” sought to achieve through statutory regimes the dominion that the slaveowner once held over all aspects of a slave’s existence.

Adopted in March 1866, following the enactment of several more detailed and racially explicit codes in other states, the North Carolina Black Code has been largely overlooked by the relevant historiography. The scant consideration accorded North Carolina’s Code has dismissively characterized the state’s laws as fair or mild derivative imitations of other black codes, liberal and even progressive in their impact on the freedpeople. Such descriptions ignore the scope of racially divisive subjugation that North Carolina legislators surreptitiously achieved.

Availing themselves of antebellum judicial precedent legitimizing a race-based structure of tiered citizenship, the state’s lawmakers relegated all blacks to a single inferior class with constrained rights and enhanced restrictions. A tripartite legislative strategy of stratification, accommodation, and control mollified a hostile Congress while covertly sustaining white North Carolinians’ supremacy over the newly emancipated. The Code, a combination of retrofitted slave laws with deceptively race-neutral statutes, all enforced according to the unchecked discretion of local officials, facilitated a scheme of

racial separation and subservience. Neither repealed nor replaced, North Carolina's Black Code instead lingered on throughout the remainder of the nineteenth century. Its provisions offered the foundation for the Old North State's eventual escalation to full-scale segregation. A forgotten chapter in the state's history, North Carolina's Black Code provided the prologue for Jim Crow's entrance into the Tar Heel State.

## DEDICATION

For my father,  
who lit the flame, and  
for Tyler and Hannah,  
who keep it burning bright.

## ACKNOWLEDGEMENTS

This should never have happened. But after twenty-six years of practicing law, something needed to change. In the fall of 2016, on something between a whim and a “Hail Mary,” I enrolled as a post baccalaureate student in a colloquium in the graduate History program at the University of North Carolina at Charlotte. The course, taught by Dr. John David Smith, a gifted educator and prolific scholar on the Civil War, Reconstruction, and all things southern history, focused on American history prior to 1865. It was a mistake. I got hooked.

I am grateful to the wonderful faculty of the History department at UNC-Charlotte for their support, patience, guidance, fellowship, and willingness to accept a second-career grad student who, according to my fellow grad students, only knew so much history because I had lived through so much of it. I am particularly indebted to Drs. David Goldfield, Carol Higham, Steve Sabol, Aaron Shapiro, Ritika Prasad, Benny Andrés, Gregory Mixon, and Peter Thorsheim for the privilege of studying and working with them. Special thanks must be extended to Drs. Sonya Ramsey and Shepherd McKinley who, in serving on my thesis committee, had no suspicion of what they were getting themselves into, and yet graciously gave me the benefit of their time, knowledge, training, and feedback on what became a behemoth of a thesis.

As for Dr. Smith, he deserves the credit (or blame) for convincing me to enter the Master’s program. He then sagely proposed North Carolina’s Black Code as a thesis topic, patiently waited as I thrashed about trying to rationalize taking on any subject other than the Black Code, and enthusiastically agreed to serve as my advisor and thesis committee chair once I finally acknowledged the wisdom of his recommendation. He has

endured endless drafts, course-corrected innumerable wild-goose chases, exhausted a trove of red pens, offered a host of invaluable resources, provided insightful feedback, and salvaged the occasional train wreck. He has been a teacher, a guide, a critic, an advocate, a mentor, and a friend. “Thank you” is wholly inadequate. This paper and I have benefitted mightily from his gifts, talents, and humor.

Through Dr. Smith, I have been introduced to other scholars who have patiently answered my questions and graciously offered feedback, most notably Drs. Jeffrey Crow and Paul Escott, and North Carolina State Archivist Sarah Koonts. The knowledgeable and multitalented staff at the North Carolina State Archives, and particularly Doug Brown and his Reference department, proved adept at identifying and adopting a bewildered graduate student researcher and incredibly patient in helping to find answers to my many questions. I was also the frequent beneficiary of the time, talents, knowledge, and good will of the amazing Special Collections staff at the Wilson Library at the University of North Carolina at Chapel Hill. They truly represent the very best of my beloved alma mater. The frequent visits to both the State Archives and Wilson Library required for my research were funded by the Kings Mountain Research Scholarship for Southern History, a grant available through the UNC-Charlotte History department thanks to the continued generosity and support of Gilbert and Jancy Patrick.

My father was the first historian I ever knew. It was his passion rather than his profession. A urological surgeon by trade, he also had a sixth sense for discovering all things historic (sites, museums, graveyards, events, traditions, narratives, etc.) for every location we ever visited, and the instant recall and storytelling magic to bring it to life. What he did not know, he spun into a breathtaking epic of Faulknerian scope. My mother

meanwhile lovingly encouraged and endured every interest, curiosity, dream, wild hair, and pursuit I could conceive, with the implicit message that the only limitations were my own. Everything has been because of their love, support, and faith.

But the credit for this paper (especially the tables!), and this inane midlife left turn, all goes to my best friend, dearest love, and partner-in-crime Katie. Instead of laughing or choking when I announced my desire to study history, she figured out how to make that pipedream a reality. Our children Tyler and Hannah have enthusiastically and indulgently provided the encouragement and commiseration that only fellow students can offer, but Katie has provided the inspiration, faith, opportunity, and occasional swift kick in the backside to make it happen. As always, she has been the rock and the sunshine. Thank you for joining me on this crazy path. To the moon and back. And, by the way, I once again have one more graduate degree than you do.



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