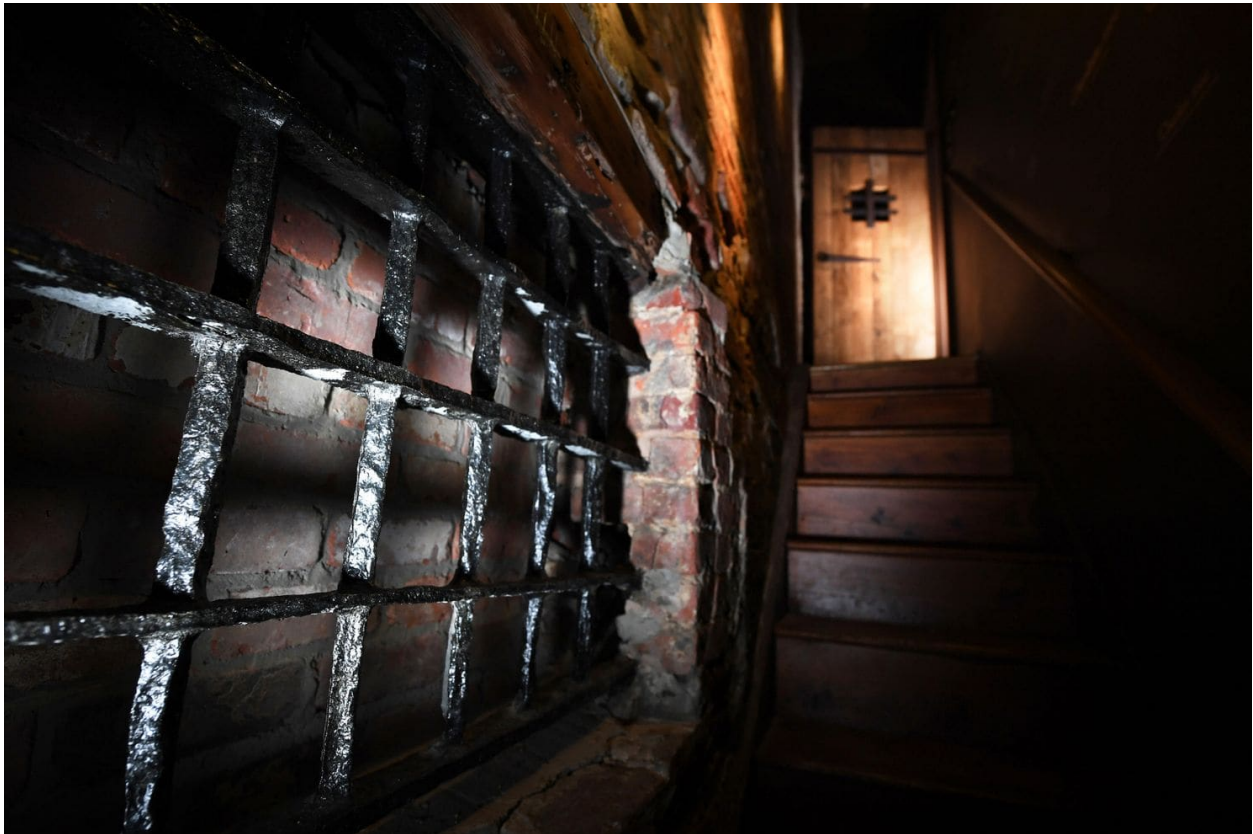


The Washington Post

https://www.washingtonpost.com/local/freedom-and-slavery-the-central-paradox-of-american-history/2019/04/30/16063754-2e3a-11e9-813a-0ab2f17e305b_story.html?utm_term=.86f1b8ff7c64

Freedom and slavery, the ‘central paradox of American history’



Freedom House Museum in Alexandria, Va., once the site of a company selling enslaved people, displays original bars from a window. (Matt McClain/The Washington Post)

By [Michael E. Ruane](#)

April 30, 2019

In October 1705, Virginia passed a law stating that if a master happened to kill a slave who was undergoing “correction,” it was not a crime.

Indeed, the act would be viewed as if it had never occurred.

Furthermore, the legislation said, when slaves were declared runaways, it was “lawful for any person . . . to kill and destroy [them] by such ways and means as he . . . shall think fit.”

Short of killing, the law added, “dismembering” was approved.

In practice, toes were usually cut off.

It had been 86 years since a British ship landed in Virginia with the first documented captive Africans to reach the mainland of English North America.

And it had been 86 years since the colony’s governor and council had convened the first continuous representative assembly of Europeans in what would become the United States.

Those two events, weeks apart in the summer of 1619, would become pillars of the national edifice, as the founders erected a structure of freedom alongside a brutal system of slavery.

It is the “central paradox of American history,” wrote the late historian Edmund S. Morgan.

Legislation and the rule of law would be tied to slavery and its legacy for 400 years — from bondage, through emancipation, segregation and civil rights.

This summer the country will mark both milestones.

Reenactments of the first assembly are planned for Jamestown, Va., where it happened. And ceremonies to mark the Africans’ forced arrival are planned at Fort Monroe, Va., where they first anchored.

For all the benefits of free representative government, it was legislation that helped define American slavery: Who was a slave? What rights, if any, did he or she have? And what rules, if any, governed the institution?

The answers were often poisoned by legislators’ views on race, slavery and white dominance. And they had catastrophic impacts that the country continues to deal with today.

A system codified by laws

By 1700, about 30,000 enslaved people lived in British North America, according to historian Sally E. Hadden.

By 1776 that number had grown to 450,000.

As slavery grew, so did slave law, and as the enslaved rebelled, ran away, conspired and sometimes murdered their owners, more severe legislation was enacted.

Virginia's code of 1705 defined slaves as "servants imported . . . into this country, by sea or land, who were not christians in their native country."

As such they could be "bought and sold," according to the authoritative history of Virginia's early laws compiled by William Waller Hening.

"Slavery is really a creature of local law," said Eric Foner, professor emeritus of history at Columbia University. "Slavery is created by colonial law and then state law."

In 1680, the Virginia assembly, fearful of the enslaved meeting "under pretense of feasts and burials," prohibited them from having weapons or leaving the plantation without an owner's written permission.

In 1696, South Carolina law would hold that slaves' "barbarous, wild, savage natures" had to be restrained.

Later it became illegal for the enslaved to beat drums, blow horns or own livestock.

They could not possess liquor or be taught to read or write.

In Charleston, they could not "swear, smoke, walk with a cane . . . or make joyful demonstrations," historian Kenneth M. Stampp wrote in his classic study "[The Peculiar Institution](#)."

In 1748, the Virginia burgesses passed a law mandating the death penalty for any enslaved person who poisoned his or her master.

This came three years after an enslaved woman named Eve was accused of poisoning her owner, historian Philip J. Schwarz wrote.

She was sentenced to be carried “to the place of execution and there to be burnt.”

A deal arranged

On July 30, 1619, in the heat of a tidewater summer, Virginia’s governor, George Yeardley, convened an assembly of VIPs from the outlying settlements inside Jamestown’s new wooden church.

The aim of the meeting was the creation of a new government, and a basic judicial system to go with it.

The assembly met for only six days — during which one representative died — but it would become the first meeting of what Jamestown Rediscovery, the group supporting the archaeological study of the historic site, calls “the oldest continuous lawmaking body in the Western Hemisphere.”

Yeardley, who had just been knighted by King James I, had returned to Jamestown after visiting Britain. He carried new instructions from the Virginia Company, which controlled the colony.

Yeardley was to organize the colony into “one body corporate, and live under Equal and like Law . . . [for] the happy guiding and governing of the people there inhabiting.”

But about three weeks later, a battered British privateer, fresh from a shootout with a Portuguese slave ship, anchored off Point Comfort, southeast of Jamestown, with a cargo of people Yeardley’s assembly had probably not considered.

A lighthouse marks Virginia’s Fort Monroe National Monument, in the area once known as Point Comfort. The first documented captive Africans to reach the mainland of English North America landed here in 1619. (Matt McClain/The Washington Post)

The White Lion, often misidentified as a Dutch ship, had, in company with another British vessel, just ambushed the St. John the Baptist in the Gulf of Mexico.

The latter ship was bound from the West African port of Luanda for Vera Cruz, now in Mexico, with a cargo of 350 captives.

After a bitter fight, the two British raiders seized scores of the enslaved, according to Jamestown historian James Horn.

Afterward, the two ships became separated, and the White Lion found refuge at Point Comfort, now in Hampton, Va.

The captain, John Jope, needed food for the crew but didn't have much to trade.

"He brought not anything but 20. and odd Negroes," tobacco planter John Rolfe wrote.

Horn says it is more likely that there were 29 Africans, and there is "little doubt" that they were slaves, not indentured servants. A deal was arranged "at the best and easiest rates," a planter reported later.

Thus, on a summer day in 1619, were the first enslaved Africans brought to the mainland, starting an agonizing journey across the landscape of American history.

A different set of laws

In 1908, a young black man named Green Cottenham was sold to the Tennessee Coal, Iron & Railroad Co. and sent to work in Slope No. 12 of the Pratt coal mines, near Birmingham, Ala.

There he labored with 1,000 other men, facing the whip if he didn't dig the required eight tons of coal a day. At night, he slept chained in barracks.

Generations removed from 1619, Cottenham, 22, wound up at the mine for violating an Alabama vagrancy law that essentially made it a crime to be unemployed.

It was one of a tangle of oppressive laws that grew in the wake of slavery, which trapped African Americans in lives of penury and semi-bondage well into the 20th century.

When he was arrested and couldn't pay his court fees, Cottenham was conveyed, by prior arrangement, to the company, which paid the money while he served his time at hard labor.

Cottenham's real crime was his "blackness," author Douglas A. Blackmon, wrote in his 2008 book, "[Slavery by Another Name](#)."

"Forty five years after President Abraham Lincoln's Emancipation Proclamation freeing American slaves, Green Cottenham . . . toiled under the lash at Slope 12," he wrote.

When the Civil War ended in the Union's victory, the federal government outlawed slavery with the Constitution's 13th Amendment in 1865. (Many northern state legislatures had made it illegal decades before.)

Three years later, the 14th Amendment asserted among other things that black people were U.S. citizens — something the Supreme Court had previously denied — and deserved "equal protection of the law."

In 1870, the 15th Amendment guaranteed them the right to vote. And there was a temporary flowering of freedom during postwar "Reconstruction."

In 1875 a federal civil rights law held that "citizens of every race and color" were entitled to full enjoyment of hotels, theaters and public transportation.

But reality for thousands of the formerly enslaved was governed by a different set of laws.

The notorious Black Codes came after the war, followed by Jim Crow laws, named for a racist 19th-century minstrel character who wore blackface.

(More than a century later, Virginia's current governor, Ralph Northam (D), would admit to [wearing blackface](#) for a Michael Jackson costume and apologize for a photograph in his medical school yearbook page in which someone appeared in blackface.)

“Almost every law and method . . . was employed by the legislatures to reduce the Negroes to serfdom,” [W.E.B. Du Bois](#), the African American historian and civil rights activist, wrote in 1903.

South Carolina barred black people from any occupation other than servant or farmer, unless they paid an annual tax, according to Foner, the historian.

The flimsy vagrancy laws led to a vast system of arrests and slave labor across the South, Blackmon wrote.

Thousands of poor men and women, often the children of the enslaved, were beaten, abused and killed in mines and on farms after being sold into service by law enforcement officials.

In 1883, the Supreme Court declared the 1875 civil rights law unconstitutional.

It was time, Justice Joseph Bradley wrote, for black people to cease being “the special favorite of the laws.”

On June 7, 1892, a mixed-race shoemaker named Homer Plessy boarded an East Louisiana Railroad train in New Orleans and entered the whites-only car.

Plessy, 29, planned to be arrested to test an 1890 Louisiana law that mandated segregated rail cars.

But his case proved to be a disaster.

It resulted in the 1896 *Plessy v. Ferguson* Supreme Court decision enshrining “separate but equal” racial segregation in much of the United States well into the next century.

Water fountains, public transportation, hotels, movie theaters and their ticket windows, schools, vending machines, prostitutes, telephone booths, elevators, among other things, were legally segregated.

Enforcement could be pursued by legal and extralegal means. “You have a legal structure, but around it is this terrorist system,” Foner said.



Shackles from the 19th century used to bind enslaved people are displayed at Freedom House Museum in Alexandria. (Matt McClain/The Washington Post)

Between 1880 and 1968, almost 5,000 black people were killed by lynch mobs and the like, historian Leon F. Litwack has written.

Often the killings were a “ritual of torture, mutilation and death, a voyeuristic spectacle . . . for the benefit of the crowd,” he wrote.

In 1899, excursion trains brought spectators to rural Georgia for the lynch mob execution of a black farmhand named Sam Hose for killing a white man in what was probably a case of self-defense.

Hose was stripped and chained to a tree. He had his ears, toes and fingers cut off and passed out as souvenirs, Litwack wrote.

He was then burned on a pyre of kerosene-soaked wood.

Years of violence and upheaval

George W. McLaurin's wooden desk in the University of Oklahoma's ornate Carnegie Building sat just outside the classroom.

He could see his classmates and teachers but, by state law, he couldn't be in the room with them.

In the library, he was required to sit at a desk outside the main reading room. In the cafeteria, he had to sit at a designated table and eat at a different time from other students.

McLaurin was 56 and a distinguished teacher seeking a doctorate in education. He had been a professor of foreign languages at Langston University and had taught at Arkansas Baptist College.

But he was black, and Oklahoma law required that his education be provided "upon a segregated basis."

McLaurin initially had to sue to enter the university, where state law had at first made it illegal to operate an integrated school. He had won that case and been admitted in 1948.

[\[“The haunted houses’: Legacy of Nat Turner’s slave rebellion lingers, but reminders are disappearing\]”](#)

In 1950, his suit over his segregation had reached the Supreme Court.

On June 5, 1950, the court ruled in his favor.

McLaurin's case was one of several that hammered at the separate but equal doctrine, and culminated in the [1954 *Brown v. Board of Education* case](#) that killed *Plessy v. Ferguson*.

The Brown plaintiffs argued that segregation in public schools was fundamentally unequal. The court agreed.

It had been 60 years since Homer Plessy tested Louisiana's separate rail car law.

But six decades of legal segregation, and two and a half centuries of subjugation, would take painful years of violence, racial upheaval and new legislation to undo.

On March 16, 1995, Mississippi, the site of some of the most infamous racist murders, finally ratified the 13th Amendment abolishing slavery.

State Sen. Hillman T. Frazier, who is black, told the Clarion-Ledger newspaper: "One of the roles of the legislature is to correct wrongs."

In this case, it had taken 130 years.

In 2017, a mob of white supremacists [descended on Charlottesville](#), to protest the removal of a statue of southern Civil War general Robert E. Lee. Lee had led the killings of tens of thousands of Union soldiers in defense of a separatist Confederacy whose constitution called for the legal maintenance and protection of slavery.

On Aug. 12, 2017, after fighting broke out between the white supremacists and counterprotesters, self-professed neo-Nazi James Alex Fields Jr. rammed his car into counterprotesters and killed Heather Heyer, a 32-year-old paralegal. Last year, Fields was convicted of first-degree murder.

Three days after the killing, President Trump claimed that not all of those protesting with Fields “were white supremacists by any stretch.”

“I think there’s blame on both sides,” he said. He added: “You had some very bad people in that group. But you also had people that were very fine people.”