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TESTIMONY SAN FRANCISCO COMMISSION ON
REPARATIONS

AUGUST 10, 2023

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REPARATIONS: JUSTICE THAT REPAIRS

SLIDE #1 This famous map of slavery in the United States is wrong. In 1855, as the country headed toward Civil War over the ownership and sale of humans, this map shrank the free states—look how tiny California is—and expanded the size of the territories. It pointed to the question of the era: would these vast territories become free or slave states?ⁱ

The hidden history of slavery in California unsettles the North/South image of African American slavery in the US. The hidden history of slave revolts and resistance in California expands the history of abolition and the struggle for freedom. It sets the stage for

reparations. This map is wrong. California was a slave state and is so now.

SLIDE 2 Alvin Coffey, enslaved by three owners, recalled, “My labor on his farm amounted to \$360, I made \$5500 for him in California, he kept my \$616 I had saved and sold me for \$1000. In this way clearing \$6,676, in clear profit.” Coffey’s first owner forced him to leave behind Mahala, his pregnant wife, and their two children. Crossing the plains, Coffey drove the oxen for twenty wagons. To protect settlers and cargo, an enslaved Black man was armed. Unaware that he was being taken to a free state, Coffey arranged to buy his freedom in California and prospect for gold on his own time. But his owner rented Coffey out to other settlers, keeping the \$700 Coffey “earned” at the riverbanks as a cobbler, laundryman, and miner. Coffey was afraid that if he escaped and was caught, he would be sold in New Orleans, and returned with his owner to Missouri. There he was sold for \$1,000 and was forced to return to California. His new owner agreed to free him for \$1,000 and in the free state of California, he mined for his owner and himself and

finally bought himself, his wife, and his children out of slavery. He returned to California where he founded a school for African American and indigenous children. The family prospered as turkey ranchers and laundry operators in Red Bluff.

William Gwin, a plantation owner from Mississippi, was the first U.S. Senator from California. Gwin decided that George Syer and his wife were too old to pick cotton and in 1855 he brought the elderly African American couple to San Francisco to work as his house slaves, forcing the Syers to leave their children behind, hostages on his plantation.

The Syers—isolated and likely illiterate—had no idea that they were now living in a free state; they did not ask Senator Gwin for wages or demand a contract. After two years Gwin ran for re-election and lost. Deciding to return to his plantation where he still held 200 enslaved men, women, and children, he thought that it was not worth the money to transport the aged couple back across the plains. In 1857 he turned the Syers out in the streets of San Francisco--homeless and

hungry. A neighborhood of free Black people let the couple know that they were free the day they crossed into California and Gwin owed them for two years of work.

Backed by their new friends, the Syers sued Senator Gwin for holding them in bondage, unpaid, in a free state. They argued that Senator Gwin had “appropriated their goods”—that is, their bodies and their services from the moment they entered California and calculated the value of their labor at \$50 per month for George and \$55 per month for his un-named wife--a higher wage because so few women moved West to do domestic work. The Syers sought \$2,282 in back pay—or about \$64,000 in current dollars.

Syers v Gwin tested whether a white resident in California could force Black men and women to work without wages in a free state. Had the couple been white, the law would hold that Gwin had made an “implied promise” to pay them and would owe them for their work. At the trial, Gwin conceded that he had never given wages to the Syers, but like a parent, he had provided food and shelter. He did not pay the Syers

for tasks they performed “out of love or duty”, or like unpaid relatives who anticipated an inheritance. The Syers, however, were neither Gwin’s heirs nor his children. An all-white jury decided that they had the wherewithal to know that they were living in a free state; they could have left Gwin to work for someone else or even left the state.

Instead, they worked for him for more than two years “voluntarily as they had formerly done.” Without a contract, Senator Gwin was free to work them and pay them nothing. Furthermore, he still owned the Syers’ bodies. Should he return with them to Mississippi, their “former relation would revive” and they would have to work for him without pay. The U.S. District Court also ruled that men and women transported as slaves into California lacked standing as free workers to bring a lawsuit or testify in court against a white man. Then the court acknowledged that slavery had been outlawed in the state constitution.

After gold was discovered in 1848 near the ranch of John Sutter, slaveholder and Indian slave broker, the US wanted this fertile land, just seized from Mexico, into the union. In 1849, a swift constitutional

convention in Monterrey, dominated by slaveholders, vowed that “Neither slavery nor involuntary servitude shall ever be tolerated in this state.” They didn’t mean it. “Tolerate” is NOT a legal standard. With this loophole, California fraudulently entered the United States as a “free state.” As the US military was clearing California’s Native Americans’ lands for settlement by slaughtering Indians and torching their villages, California began to ship \$1.5 billion annually to the banks, insurance companies, and shipping firms in the East.

The Missouri Compromise was a shameful trifecta of pro-slavery power: 1. California would enter the US as a free state. 2. Utah and Nebraska would be free to choose to join the union as free or slave states. 3. Congress would pass the Fugitive Slave Act of 1850: any Black person in the North could be targeted as a runaway slave and sold. That year the new state passed its first law: the Act for the Government and Protection of the Indian. It legalized the kidnapping and forced indenture of Indians—boys until they were twenty-five; girls till age thirty-five.

The history of slavery in California began the day Junipero Serra crossed the Mexican border near San Diego and led the Spanish invasion of California in 1769 with 8 fanatical priests and one hundred disgruntled Spanish soldiers. The plan was to conquer and convert thousands of California Native Americans, seize their coastal lands to feed indigenous miners in Mexico and Peru, and build a chain of 21 religious slave plantations. **SLIDE 3 SLIDE 4 SLIDE 5** Unlike the white structures our children built out of sugar cubes in the 4th-grade mission project our children built dreaming of Taco Bell--- the Kumeyaay people held at the San Diego were freed; their tribesmen swept down from the mesas, burned the church and dormitories, slaughtered the padre, and freed all their brethren—never to return. At San Francisco's Mission Dolores, the mission of tears, captives fled across the Bay in reed canoes. **OHLONE IN CANOE** Coordinated strategic slave revolts arose across the mission chain: at Santa Barbara, La Purisima, and Santa Inez indigenous captives seized the priests and fled by the hundreds into the tule marshes. These revolts helped bring the Spanish missions to the end.

In the early 1800s the Russians shipped Alaska Natives, otter hunters, down the coast--the first slaves carried into California, and in 1808 built a slave colony at Fort Ross in Sonoma County. **SLIDE 6**

ALASKA NATIVE Under a contract with the emperor of Russia to enslave 50% of the Alaskan men, the Russians kidnapped hundreds of indigenous Alaskans to slaughter otters along the coast and sell the silky pelts in China. Here, slavery met Empire met the environment in a Pacific Slave Triangle—Alaska, California, Canton. Scared of the Spanish, the Russians, deposited the skilled otter hunters on the rocky outcroppings of the Farallon Islands—to hunt thousands of sea otters and survive on the windswept rocks, under armed Russian guard. There too a few Alaska Native women stitched waterproof parkas and built kayaks from the bones, skin, and long guts of sea lion. Here the Alaska Natives survived by licking water from crevasses in the rocks or died of rape, hunger, and thirst, Still, many just paddled away, likely north to their decimated villages in Alaska.

Our vocabulary is rich in terms for slaves: unpaid workers, chattel slaves born and sold for profit, indentured peons--targets of settler colonialism—whose bodies and lands were seized during the California Genocide; indentured Indian “vagrants”—refugees in flight from the war against them. California held unwilling Chinese prostitutes, **Slide6** convict laborers, **slide young** children seized for the Indian Boarding **Schools slide** and sent out to work in the new orange groves and hotels. Today California is the state with the most victims of human trafficking in the nation.

Frederick Douglass called slavery a "hydra-headed monster": cut off one head and two grow in its place. In California the insatiable hydra has gorged on illegal and legal slavery. It has slithered in a bountiful landscape. It has grown many heads. Slavery secured the conquest of California; it settled the land and fostered the wealth of the fifth largest economy in the world. Here slavery was signed in race.

Southern states had always sought to extend plantation slavery to the American West. Even before the discovery of gold, and as tobacco

and cotton destroyed southern soil, a few enslaved Black men had been marched 3000 miles across the plains to work in the fields of California.

With the Gold Rush, **Slide 7 Chinese Girl** Chinese girls—sold by destitute parents—were shipped from the southern coast of China to the docks of San Francis where they were strip-searched, auctioned, and sold into caged brothels that lined Jackson Street (now Grant Avenue).

Slide 8 nursing Indian refugees who could not prove that they were employed were handed to the highest bidder. Refugees from the Indian genocide were seized from reservations and US military forts, sold and delivered deliberately far from their tribal homes, to clear the land or work as nannies.

Unlike in the South, California did not grant slaveholders the right to own the children of the enslaved. But California slavery was gendered-- at the missions, Fort Ross, the homes and ranchers where indigenous Californians were indentured, in the Chinese brothels and at the boarding schools, in mining towns and brothels where enslaved

Blacks were shipped, slaveholders owned the sexual as well as the working body of the enslaved.

Chattel slavery **new slide** arrived in California. It thrived side-by-side the clinking of irons in the first chain gangs---men imprisoned for pickpocketing or minor theft during the gold rush, when a bottle of milk sold for \$12 and a loaf of bread for \$18. **Slide 9 water torture** Under a \$100,000 contract, the California legislature gave prisoners from across the state to corrupt contractor James Edsell who loaded them onto foul prison brings and sailed them around the Bay to work on the roads, sewage systems, and mansions of San Francisco. In the mid-1850s, convicts were forced to build their own prison at San Quentin, and work or be tortured in a furniture factory or jute mill at California's first penitentiary. Here was born the carceral state in California. The Thirteenth Amendment takes us to the core of the state itself: "neither slavery nor involuntary servitude, except as a punishment for crime ... shall exist within the United States." Slavery is not a punishment for shoplifting or petty theft.

Today California has the most victims of human trafficking of any state. **Slide 11 Shyima Hall** Asians and Latinos, seized in their homelands or at the border, locked in sweat shops to sew California's relaxed chic. African American and young white women are pimped in brothels in gated communities in Walnut Creek; trafficked immigrants plow the vineyards and provide sex in massage parlors. Teenage girls are forced to advertise themselves in the thriving on-line sex trade. San Francisco is the tenth top site for human trafficking in the US; Oakland is the 6th.

Yet for 250 years, everywhere were slave revolts, flights, escapes, rescues, refusals, and petition drives. Owners were murdered and court cases were won. The enslaved survived.

SLIDE 12 AD African American slavery in California was distinct. There was chattel slavery in California. Brought across the plains from the plantation South, in California enslaved Black people met free Black people. Some, whose owners feared that would discover their liberty in the free state, forced them to sign contracts, pledging to remain in

bondage for a year or two. Others fled into the dense forests or along the rivers once they reached California.

Few enslaved Black people fled to California—it was over 2,000 miles from home, no news of an abolition movement traveled South, and at first, no underground railroad transported runaways. But to their mutual surprise, here free Blacks met enslaved blacks, who, for example, hid enslaved fugitives at Hackett House, a Black boarding house in Sacramento.

In December 1850 in Sacramento, California, Sarah Carroll, a nineteen-year-old prostitute and a free woman of color, brought a charge of grand larceny against William Potter, a free man of color, for stealing \$700 of her property. Carroll told police that Potter had spent the night in her room, took a key she kept hidden in a pocket of her skirt, opened her trunk, and stole one white stone breastpin, one heart set with a diamond, six chemise buttons, one blue shawl decorated with white flowers, several gold coins, and ten dollars in gold nuggets, and hid in his luggage on board the steamship *New World*. Carroll signed her

complaint with an *X*, and Potter was arrested and Carroll's belongings were found. But Potter claimed that he was, in fact, white and thus, Carroll could not testify against him. A justice of the peace quickly released Potter, "he proving himself a white man & none but Colored testimony against him." Carroll, as a Black woman, could not testify about Potter's race and the police arrested her for bringing false charges.³

Hovering over enslaved and free Black people was the early California Supreme Court case *In re Perkins* (1852). In June 1849, Charles Perkins left his humid Mississippi plantation for the gold fields, taking with him three of his father's slaves-- Robert Perkins, Carter Perkins, and Sandy Jones. Not realizing that here they were free, the men mined for Perkins. After three months Charles Perkins realized he would make more money if he rented out the men, kept their wages for himself, and mined on his own. After a few weeks, Perkins had had enough; he told the men they had fulfilled their obligations and were

free. Perkins returned to the South and the three Black men returned to the goldfields and thrived.

Once back in Mississippi, Charles Perkins was regretful; enslaved Black men were selling for \$1,000 apiece. So, he hired vigilantes to seize the men and their gold dust and have them arrested as runaways under California's own Fugitive Slave Act. The national Act did not work in California because the enslaved did not flee across the state border into freedom—they were brought in by their owners. Now it was illegal to escape WITHIN the state. The three men were not allowed to testify that they had bought their freedom and were held. Quickly, the Black community raised the first of many defense funds and launched a movement against the state's Fugitive Slave law.

Five years before the *Dred Scott* decision, the California Supreme Court justices—all from slave states—decided *In re Perkins*.²⁹ They ruled that a slave brought into the free state did not “become ipso facto free.” “People of the United States” had the right to immigrate to California “with every species of property they had” and slaves were property. The court declared that California's Fugitive Slave Law was

constitutional; it also declared that it had maintained slavery in order to “obliterate” Blacks from California. The court ignored the core issue—these three men were residing in a free state—and ordered them shipped back to Mississippi. Apparently, en route they escaped in Panama. Had the three men been allowed to testify that they had been freed, the fate of Blacks in California would have swerved.

SLIDE 13 PETITION The ban on testimony was a formidable barricade to freedom for African Americans. The doctrine of states’ rights in the Tenth Amendment, made it easy for California to legalize the racist beliefs that allowed bondage to endure. The ban on African Americans, Indians, and Chinese migrants from testifying against a white person drove a unique coalition of enslaved and free Blacks in California to launch petition drives, rallies, lawsuits, and three Colored Conventions (1855, 1856, and 1857) that forged the first civil rights movement in the Golden State. Hundreds of free Black people collected 8,000 petitions in just three years. This mass effort for access to justice focused on one demand—the right for Black people in California to

testify, and in the late 1850s, the dangerous ban slowly disappeared from California codes.

For over 250 years, the enslaved in California have sought reparations: When Mexico ended the mission system, Indians demanded retroactive wages for all the churches and barracks they had built and fields they had planted, and they sought to reclaim the mission compounds as Indigenous space. At Mission San Juan Capistrano they demanded the mission's land for themselves and remained at the compound. Native Americans in California refused to move onto homelands still held by other tribes.

After the violent purges from Chinatowns across California, in 1886, two enslaved Chinese prostitutes bravely joined fifty Chinese men to file *Wing Hing v the City of Eureka*, likely the first lawsuit for reparations in the United States and also the first to demand money for having been driven out by a mob. The Chinese collectively sought \$75,245 for the town's "carelessness or negligence" for their property that was "removed, carried away, and destroyed." But rather than a

simple tort case or demand for damages, the Chinese sued because the city neglected its legal duty and let them become “victims of mob violence.” Together, the plaintiffs sought over \$112,000 for suffering as targets of a brutal race riot. They sued as a group because the city officials and rioters treated them as a group, a group that included the enslaved women. The Chinese lost *Wing Hing v Eureka*. The court held that because the Chinese did not pay taxes on land—land, they were reminded, they were not allowed to own – they had lost nothing “of value.” The Chinese lost *Wing Hing v Eureka*, this demand for reparations signaled a bold Chinese response that put other rural towns on notice that racial purges would be costly.

With the diversity of slavery in California, there is no single legal path to reparations. Many sorts of acts constitute reparations. Reparations may include education and scholarships, economic opportunities, protection of voting rights, safe housing, and environmental restoration of toxic and impoverished urban sites. They may include police and prison reform. California

Native Americans not only seek land restitution but also the removal of dams that send their water to agribusinesses in the Central Valley. This summer, 2023, the first dam on the Klamath River has been removed, and three more will soon follow.

All forms of reparations depend on witnesses, on evidence, on history. The enslaved were witnesses; they were surrounded by witnesses. Witnessing is a source of knowledge. To establish amends, reparations must recover forgotten truths. The stolen people, distanced from the law and erased from history, nonetheless undid the deep silences of slavery. Brutalized by slavers and banished from the polis, they refused to endorse the fiction of a free state. The stories of their quests for freedom found cracks in history's silences; their stories arose in wiry growths that pushed up through the sealing mortar of political denial. The modern demand for reparations cuts through swaths of academic forgetting. Although those who lived in freedom in California often looked away, slavery was visible and on display.

Reparations require a collective reckoning and valuation of the magnitude of what has been taken. Estimates run to 850 billion dollars over time. In the nineteenth century Congress rejected every treaty that would return land to California's indigenous people, today 45,864,800 acres of federally owned land in California, (nearly half the state) is undeveloped. There is land that could be returned to the tribes. In 2015, the Kashia Pomo insisted that California return 700 acres of land in the fertile wine country, the lands of Metini on the cliffs over Bodega Bay where Russian fur traders captured their tribal members to build a colony for the devastation of otters. In 2019 the Weott persuaded the city of Eureka in Humboldt County to return 200 acres of Dulawat Island, their spiritual homeland and the site of slaughter and mass kidnap 144 years ago.

Reparations reset our forgotten history and lost memories. June 19th –Juneteenth-- celebrates the emancipation of African Americans. On Juneteenth, 2020, crowds toppled a thirty-foot statue of mission priest and slaveholder Fr. Junipero Serra whose shadow loomed over a

neighborhood park in San Francisco. Three days earlier, a multi-ethnic protest led by Black Lives Matter convinced the city of Sacramento to remove a statue of iconic slaveholder and Gold Rush hero John Sutter, from Sutter General Hospital. Still twenty-four Sutter Health Acute Care hospitals, two hundred Sutter Health clinics, several streets in San Francisco and Sacramento, the state Capitol and many elementary and middle schools are named for the man who enslaved three thousand California Native men, women, and children. Toppling statues of Junipero Serra or John Sutter or removing the name of Serranus Hastings (the slaveholder and rancher who masterminded a slaughter of the Yuki people) from the University of California Hastings College of Law acknowledges this lost history and undoes mythologies that justify long-held claims for wealth and power.

Removing such monuments acknowledges a truth and becomes evidence of the need for repair. For some, apologies create a form of reparations. A statement of regret does not undo the harm, but it does admits that an atrocity occurred. Starting in 2009, 150 years after the fact, statements of remorse for the slavery of California Natives and

African Americans were uttered throughout California-- by those who did not perpetrate the violence. Today statements of contrition flow from university presidents and state officials who built prestigious institutions of higher learning on Yurok, Ohlone, and Miwok land and still refuse to return Native bones and pottery. Even a staged apology is a collective admission that a grievous wrong was committed. An apology offers context to demands for equity.

In 2019 California Governor Gavin Newsom apologized for the “war of extermination” that Peter H. Burnett, slaveholder and the first Governor of California, launched against California Natives in 1851. Newsom then convened a Truth and Healing Council which many Costanoan/Ohlone Indians oppose because, they say, Californians are unready to “listen with their hearts so that they can understand and help carry the burden...To have a healthy relationship, it takes two healthy parties.” California, “still turns the missions into tourist attractions and uses the state parks [built on tribal lands] for monetary gain.” For the Ohlone, an apology without redress is hypocritical. A true state apology

is a pledge of self-correction, a promise to fix a problem. It is a call and response.

Today “land acknowledgments,” formally recognize Native Americans as the traditional stewards of the land.; they thank a tribe for letting people study or work on land that was stolen--paved over; built over. Land acknowledgments do not exist in the past tense; they recognize unpaid debt for long-held theft. But they do not return pay for stolen children, land, bones, or repressed history.

Slavery in California slavery was costly. The people starved when Alaska Natives, trapped in California, missed the long Alaska summers when salmon spawn in the creeks. During the 300 Chinese purges of the 1880s, enslaved girls were driven from their new jobs in shops or kitchens, and then joined the *Wing Hing* lawsuit against the city of Eureka. .

How to run a tab on the costs of human bondage? Where to begin to pay down the crushing debt? How to pay down the future? To whom? To direct descendants of the enslaved or to the populations who suffered the legacy of human bondage in segregated

neighborhoods, underfunded schools, and polluted neighborhoods. A vow to witness, acknowledge, and speak the history of slavery in California is a painful first step. The histories of California's Indigenous children appear in the logs of the Indian boarding schools, in parents' letters demanding pay for children's field labor, and on their unnamed graves in cemeteries buried behind crumbling schools.

Can history reverse the effect of injustice? Does history point to the fact that loss is real and financial equality is fair, that payment for damages means that the state has taken responsibility for harm? "Justice that repairs" also compensates for current inequities that flowed from slavery.

SLIDE 14 ARCHY LEE History is a kind of reparation; it assumes that truth is a condition of restitution. Can a history of slavery be hopeful? Telling the truth of California marks a closure to silence and testifies to a resistant foundation on which to build. In 1858 Black abolitionists in San Francisco pulled Archy Lee, a fugitive from slavery over and over again, out of a rowboat ferrying him to a ship bound for New Orleans and set him free. Black ancestors' fight for the right to

testify may be helpful to today's young descendants of the enslaved who are crafting their own calls for justice.

The Commission on Reparations does not see its work as a “reckoning”-- a moral calculation that points to forgiveness-- because human bondage is not an event that occurred in the past. Slavery in California was a sustained structure of economic, gender, and racial power. It cannot be peeled away on its own. History cannot write checks to descendants and affected communities. Across the state, that task has been kicked between the legislature and courts that from the birth of the state mutually sanctioned slavery. Financial restitution must overcome the barriers of owners long-dead, institutions defunct, and the legal precedent of “sovereign immunity” --a government cannot be sued without its own consent for wrongs committed in its name.

Nonetheless, after scores of witnesses, Congress granted \$20,000 each to Japanese Americans, most from California, who were detained in “Internment Camps” during World War II. In 2015, Congress

authorized payments of up to \$10,000 per day for dozens of people taken hostage in Iran in 1979, the largest reparations program ever.

Demands for financial reparations recalibrate economic estimates with facts; they erase dangerous stereotypes, such as 19th-century images of lazy Black people, or of diseased Chinese prostitutes--that have been reborn in recent anti-Asian assaults based on the falsehood that Covid-19 is the “Chinese Flu.” History has aided the return of sacred regalia and human bones to California tribes.

Descendants of the captive Subpiak, Dena’ina, and Tlingit Alaska Natives have joined the California Kashia Pomo to build a trail from Fort Ross on the cliffs over Bodega Bay down to the sea, to tell visitors and school children that the imposing tourist site was built on a damaged ecosystem and former slave site. Yurok historian Jack Norton says that although the past has been “destroyed in whole or in part,” to know the history is “to live more graciously upon this land.”

The San Francisco Commission’s Reparations Report establishes the pre-conditions for African Americans to “live more graciously upon this land.” The Report faces our current existential debate about facts,

truth, and accountability. It relies on the voices of those who were deceived and who resisted, of those who witnessed. This history of the enslaved in California does not calculate a total sum of evil; hopefully, it makes the invisible visible. So that we become accountable. The voices of the men and women held in human bondage have smuggled out shards of the evidence of slavery and pieced them together.

The distance between the voices of the enslaved and my own is great. Yet together they insist that we recognize the state that grew outside the national myth of progress. Their voices insist that for 250 years, the enslaved in California cried forth in bondage and demanded freedom and justice that repairs.

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ⁱ Citations for this testimony can be found in Jean Pfaelzer, *California A Slave State*, Yale University Press, 2023, passim.