

COURTESY OF ANN RONAN PICTURES/PRINT COLLECTOR/GETTY IMAGES

## I. Introduction

On July 5<sup>th</sup>, 1852, Frederick Douglass gave a speech to a crowd of 600 mostly white antislavery activists in Rochester, New York, the day after Independence Day.<sup>1</sup> Douglass was one of the most famous African American antislavery and civil rights activists at the time.<sup>2</sup> He began by praising the courage of the nation's founders in winning their freedom from the British Empire.<sup>3</sup> But Douglass did not come to celebrate American independence and liberty.<sup>4</sup> The United States was founded on the idea that “all men are created equal[,]” but white Americans enslaved their fellow African Americans and “notoriously hate[d] [...] all men whose skins are not colored like your own.”<sup>5</sup> For Douglass, the Fourth of July only highlighted the “immeasurable distance” between free white Americans and enslaved African Americans.<sup>6</sup> “The blessings in which you, this day, rejoice, are not enjoyed in common.—The rich inheritance of justice, liberty, prosperity and independence, bequeathed by your fathers, is shared by you, not by me,” he explained; “You may rejoice. I must mourn.”<sup>7</sup>

Frederick Douglass's speech about the Fourth of July shows the conflict at the heart of American history. The United States prides itself on liberty, equality, and justice for all, but for over 400 years, white people of European ancestry built and continued a brutal caste system based on false notions of racial difference: white people at the top, people of African descent at the bottom, and all other groups ranked in between.<sup>8</sup> From the beginning, America's wealth was built by the forced labor of people from Africa and their descendants. These people were forcibly sold and traded as commodities and millions of them cultivated crops—tobacco, sugar, rice, indigo, wheat, corn, and especially cotton—that allowed American colonies and the early United States to prosper. Colonial governments and the U.S. government at all levels allowed and participated in the exploitation, abuse, terror, and murder of people of African descent so that white people could profit as much as possible from their enslavement. To justify stealing the intellect, skill, and labor of African Americans, enslavers created and spread false, racist ideas that African Americans were less intelligent than whites, that they loved their children less than white parents, and that they felt less pain than white people did.



Captives being brought on board of a slave ship on the West Coast of Africa. (c. 1880)

Insisting that African Americans were less than human made it easier for enslavers and the American government at all levels to deny them the legal rights that many white Americans believed were a basic part of being American. After enslavement officially ended in 1865, white Americans terrorized African Americans with violence and racist ideas. African Americans lived under violent threats to themselves and their families and did not have the economic opportunities or political rights of their white peers. Through laws allowing, promoting, and protecting enslavement, federal, state, and local governments were complicit in stealing centuries of unpaid wages from African Americans. The racist ideas invented to control enslaved people have echoed through centuries of American laws and policies and inflicted physical, mental, and emotional trauma on approximately 16 generations of African Americans. The state and federal governments of this country have never atoned for these harms.

This chapter traces the long arc of enslavement in early North America and the United States. Sections III and IV examine the origins of race-based enslavement

targeting people of African ancestry, the ways slavery generated wealth for white colonists in English North America, and the emergence of transatlantic trafficking in enslaved African people. Section V discusses the importance of enslavement to the founding of the United States from the American Revolution to the creation of the U.S. Constitution. Sections VI, VII, and VIII describe the lives of enslaved people during the height of the domestic slave trade, the complicity of northerners in the perpetuation of enslavement, and enslavement's importance to American educational, religious, and governmental institutions. Section IX discusses the expansion of enslavement into western U.S. territories, the establishment of enslavement in California, and the complicity of the California state government in promoting enslavement, oppressive laws, and anti-Black sentiment. Finally, sections X, XI, and XII conclude the chapter by examining the U.S. Civil War, the formal abolition of enslavement, policies toward formerly enslaved people during Reconstruction. It ends by considering the lingering, harmful effects of efforts to recast the defeat of the Confederate States of America into a “Lost Cause” myth that endures to the present day.

## II. The Origins of American Enslavement

### Pre-Modern Enslavement

Enslavement has existed for thousands of years in many different cultures across the world.<sup>9</sup> It is only in the past 400 to 500 years that white Europeans developed a type of enslavement based heavily on the color of someone's skin and that mainly targeted people of African ancestry.<sup>10</sup> This type of enslavement developed gradually between the 1400s and the 1700s.<sup>11</sup> It was based on the ideas that African ancestry could be the basis for life-long enslavement that the children of enslaved African-descended women could be enslaved from birth, and that people of African descent were naturally destined to be enslaved.<sup>12</sup>

Before the 1400s, a time period known as the “pre-modern era,” enslavement and enslaved people differed widely.<sup>13</sup> In the ancient Roman Empire, for instance, those who were enslaved were mostly conquered people who came from multiple racial, ethnic, religious, and class backgrounds across Europe, the Middle East, and North Africa.<sup>14</sup> In the Middle Ages (600s to 1400s), Celtic peoples, North Africans, Scandinavians, and especially Slavic people from Eastern Europe (from whom the word “slave”

comes) were the most commonly enslaved groups in Europe.<sup>15</sup> In the Muslim kingdoms of North Africa and the Middle East, both Slavic people and sub-Saharan African people (Africans who lived south of the Sahara Desert) made up a large number of those who were enslaved.<sup>16</sup>

Enslaved people in these diverse societies became enslaved in different ways: they could be prisoners of war, victims of kidnapping, targets of religious crusades,

**To justify stealing the intellect, skill, and labor of African Americans, enslavers created and spread false, racist ideas that African Americans were less intelligent than whites, that they loved their children less than white parents, and that they felt less pain than white people.**

people sentenced to enslavement as a punishment for crimes, or poor people sold to pay off debts.<sup>17</sup> Depending on the culture or time period, children born to one or more enslaved parent were not always automatically enslaved, and it was fairly common for enslavers to free



the children, grandchildren, or great-grandchildren of enslaved people.<sup>18</sup>

Finally, early enslaved people fulfilled a variety of roles in their societies beyond being forced agricultural laborers or house servants.<sup>19</sup> Enslaved people could be status symbols who represented the wealth and power of their enslavers, trusted advisors, poorly treated members of their enslavers' extended families, coerced sexual and marriage partners, or slave-soldiers forced into military service.<sup>20</sup>

### Beginnings of Modern Enslavement

Enslavement changed with European world exploration and global colonization between the 1400s and the 1600s.<sup>21</sup> In North America and South America, English, Spanish, French, Portuguese, and Dutch colonizers took Indigenous peoples' land to grow crops such as sugarcane, tobacco, rice, and coffee and to mine for gold.<sup>22</sup>

In most of these new colonies, natural resources and land to grow crops were common, but laborers were scarce.<sup>23</sup> In order to efficiently exploit these resources, Europeans first captured, enslaved, and exploited the Indigenous peoples of North and South America.<sup>24</sup> Because the enslavement of Indigenous people could not keep up with the demand for labor, European colonizers began to traffic enslaved people from the continent of Africa.<sup>25</sup>

Portuguese and Spanish colonizers brought the first enslaved Africans to North and South America to supplement forced Indigenous labor.<sup>26</sup> Portuguese merchants had been trafficking West Africans and selling them in Portugal for many years before the colonization of North and South America.<sup>27</sup> It was these captives who were first forcibly moved in small groups to European colonies across the Atlantic Ocean.<sup>28</sup> Portuguese and Spanish colonizers eventually started buying thousands of enslaved Africans along the coasts of West Africa and Central Africa and bringing them directly to colonies in the Caribbean and Brazil.<sup>29</sup> Around 500,000 enslaved people of African descent had already arrived in North and South America<sup>30</sup>—including Spanish settlements in present-day South Carolina (by 1526)<sup>31</sup> and Florida (by 1539)<sup>32</sup>—by the time Dutch pirates sold around 20 African captives to English colonists in Jamestown, Virginia, in 1619.<sup>33</sup>

### Creating the American Racial Hierarchy

When these first Africans were brought by force to the English colonies that became the United States, a caste system based mostly on skin color did not yet fully exist.

Instead, European colonists who wanted to exploit enslaved African American people and profit from their labor built this caste system gradually during the 1600s and 1700s.

In the very earliest years of English colonization in Virginia, European indentured servants were the most common workers.<sup>34</sup> Indentured servants were usually either poor people who agreed to work for wealthy people for several years in exchange for transportation to the colonies, or they were people found guilty of crimes who had to work for several years in the colonies before getting their freedom.<sup>35</sup>

At first, there was not much difference between the treatment of enslaved Africans and European indentured servants.<sup>36</sup> The major divisions in Virginia were between wealthy people and poor people who were forced to labor, not between African American and white people.<sup>37</sup> Wealthy white Virginians who controlled the colony and profited from the labor of both indentured white people and enslaved African people feared that rebellions by these lower-class people might undermine their power and wealth.<sup>38</sup>

Wealthy white colonists attempted to solve this problem by using race as a way to divide these two groups and stay in power.<sup>39</sup> Rich white Virginians began to grant more rights and privileges to poorer white people.<sup>40</sup> This move created a false sense of greater equality among rich and poor white English colonists, who began to come together around a shared idea that they were “white” people who were naturally superior to “Black” people

COURTESY OF KEAN COLLECTION/GETTY IMAGES



'Introduction of Slavery,' probably Jamestown, Virginia, late 1610s.

of African descent.<sup>41</sup> The new unity between rich and poor white people in Virginia encouraged poor whites to keep Africans and their descendants enslaved and to help their wealthy neighbors squash rebellions of enslaved people.<sup>42</sup>

Colonial lawmakers then established new laws that made the racial caste system a permanent part of American culture and society.<sup>43</sup> Colonial laws aimed to control people of African descent, keep them in life-long enslavement, and keep poor whites and enslaved African-descended people divided.<sup>44</sup> In the late 1600s and early 1700s, these colonial laws gradually built up a legal system that treated people of African descent as permanent outsiders whose skin color made them naturally different from and unequal to all white people.<sup>45</sup> These Virginia laws, called “Slave Codes,” did the following:

- Made enslavement permanent and automatic for most people of African descent by saying that children born to enslaved mothers would be enslaved for life<sup>46</sup>; that becoming a Christian would not end enslavement<sup>47</sup>; and that enslavers could not set enslaved people free unless they paid to take them out of the Virginia colony;<sup>48</sup>
- Made it easier for whites to control free people of African descent (those born into freedom or who did manage to escape enslavement) by denying them

legal, political, and social rights.<sup>49</sup> These included the right to vote, serve in colonial military organizations, have political office, or carry firearms;<sup>50</sup> and

- Divided all white people from all African American people by making interracial sex or marriage a crime,<sup>51</sup> punishing white women who gave birth to mixed-race children,<sup>52</sup> and forcing these mixed-race children (and their children) into indentured servitude until they were 31 years old.<sup>53</sup>

Other southern colonies that depended on enslavement passed similar laws across the 1700s, sometimes copying the laws of Virginia directly.<sup>54</sup> These early slave codes ensured that this racial caste system became widespread across much of the area that would later become the United States.<sup>55</sup>

Only after enslavement became widespread and profitable and racist policies were in place, did white people develop elaborate racist ideas to explain why the racial caste system was natural and good.<sup>56</sup> European enslavers argued either that enslavement “civilized” Africans by introducing them to European climates and lifeways, or that the Christian Bible had automatically cursed them to suffer enslavement.<sup>57</sup> The overall goal of these racist ideas was to defend enslavement and white supremacy by claiming that African American people were, and always had been, inferior to white people with European ancestry.<sup>58</sup>

### III. The Transatlantic Trafficking of Enslaved People

#### The Growth of Slavery

The search for profits, the unity of rich and poor white colonists, and the development of racist ideas paved the way for the massive increase of slaving voyages to Africa and the enslavement of people of African descent in the lands that would later become the United States.<sup>59</sup>

The enslavement of people of African descent played a major role in the population boom of English colonies in North America during the 1700s.<sup>60</sup> Enslaved Africans and African descended peoples made up 47.5 percent of all people who arrived in the English colonies between 1700 and 1775 (around 278,400 of the 585,800 new arrivals documented during this period).<sup>61</sup> This meant that the transatlantic slave trade was nearly as important to the growth of English North America as free (or indentured) immigration from Europe.<sup>62</sup>

The populations of the English colonies showed this change: Between 1680 and 1750, people of African

descent increased from 7 percent to 44 percent of the total population of Virginia, and from 17 percent to 61 percent of the total population of South Carolina.<sup>63</sup> This trend was even more pronounced in the nearby British colonies of the Caribbean (known as the West Indies) where almost one million enslaved Africans were forcibly brought during the same period of time,<sup>64</sup> and where enslaved people made up 80 to 90 percent of the total population.<sup>65</sup>

To keep the profits of enslavement growing, British merchants, the British monarchy, and the British government worked together to become the leaders of the transatlantic slave trade.<sup>66</sup> Just one English company, the Royal African Company, forcibly brought nearly 150,000 enslaved people from Africa across the Atlantic Ocean between the early 1670s and the early 1720s.<sup>67</sup> This total was more than any single company in the entire history of the transatlantic slave trade.<sup>68</sup>

The English transatlantic slave trade of the 1600 to 1700s differed from the slave trades which existed in West Africa before or during the same period.<sup>69</sup> Enslavement was common in sub-Saharan Africa, including West Africa, which (in addition to Central Africa) was one of the main areas of the transatlantic slave trade.<sup>70</sup> In West African societies, enslaved people were usually people captured in wars or attacks on other ethnic or lineage (family ancestry) groups, people who owed debts, or people found guilty of crimes.<sup>71</sup> Enslaved people in West African societies also had a wide variety of social and economic roles.<sup>72</sup> Many, especially children, lived in the same home as their enslavers and were treated as “pawns,” low-status members of the family group.<sup>73</sup> Some worked in agriculture or as house servants, while some became wives or concubines (involuntary sexual partners or secondary wives).<sup>74</sup> This enslavement was not usually permanent or passed on to the next generation.<sup>75</sup> Most enslaved people and their children in West Africa gradually lost their enslaved status and became part of the families and communities of their enslavers.<sup>76</sup>

The arrival of Europeans made enslavement along the western coast of Africa more widespread and violent.<sup>77</sup> European enslavers depended on African slave-trading networks for captives to send across the Atlantic Ocean.<sup>78</sup> But the massive demand for African captives, which kept growing as Europeans colonized more areas of the world, changed African enslavement greatly.<sup>79</sup> Warfare and kidnapping raids increased to capture more people to sell to Europeans.<sup>80</sup> The focus of the West African slave trade also shifted to the coasts and port cities where Europeans set up trading forts to buy people who had been captured.<sup>81</sup>

The transatlantic slave trade eventually involved capturing Africans from an enormous geographic area covering much of West Africa and Central Africa, and even extending to the island of Madagascar off the south-east coast of Africa.<sup>82</sup> This trafficking in human beings spanned 3,500 miles along the western African coast from present-day Senegal in the north to present-day Angola in the south, and as many as 500 to 1,000 miles into the interior of the continent.<sup>83</sup> Captive African people often changed hands many times and traveled long distances before they arrived at coastal ports where Europeans bought them.<sup>84</sup>

## The Middle Passage

African captives suffered horrific physical, emotional, and mental trauma before and during the voyage across the Atlantic Ocean.<sup>85</sup> This journey was called the “Middle Passage” and it was so dangerous, unhealthy, and violent that almost 1.8 million people died before they ever reached the Americas.<sup>86</sup>

Enslaved Africans’ suffering began even before the slave ships set sail for the Americas.<sup>87</sup> Once European enslavers purchased people who had been captured from African enslavers, they incarcerated them for days, weeks, or even months until they were ready to sail.<sup>88</sup> In the earlier years of the slave trade, European enslavers imprisoned enslaved people in large corrals called “bar-racoons.”<sup>89</sup> The most common practice, however, was to incarcerate enslaved people on board the slave ships until it was time to sail for the Americas.<sup>90</sup>

During the journey across the Atlantic Ocean, enslaved Africans went through months of torture trapped inside slave ships.<sup>91</sup> The voyage, which was called the “Middle Passage” because it was the second leg of a triangular trade between Europe, Africa, and the Americas,<sup>92</sup> took 80 to 100 days (around 2.5 to 3 months or more) in the early years of the trade (although new sailing technol-

**Almost 1.8 million Africans died as they were trafficked across the Atlantic Ocean to slavery.**

ogies cut the length of the trip to 60 to 80 days in later years).<sup>93</sup> Slaving ships came in many different sizes, but the average Royal African Company boat held around 330 enslaved people.<sup>94</sup>

African men, who made up around two-thirds of all those captured,<sup>95</sup> spent almost all of the journey—sixteen hours or more every day—laying down in specially constructed rooms inside the ships.<sup>96</sup> Crews stripped them naked, chained them up,<sup>97</sup> and forced them to lay down on their sides, or to lay head to feet, so that they could fit in as many people as possible.<sup>98</sup> On English slave ships, each man had a space smaller than the size of a coffin.<sup>99</sup> On ships with “tight-packing,” captains added an extra platform so that men laid in two rows stacked on top of each other with only 2.5 feet of vertical space to lay down.<sup>100</sup> Enslaved women and children, who were usually smaller in number, lived together in groups in small rooms inside the ship.<sup>101</sup>



Conditions inside slave ships were horrific and caused massive amounts of sickness and death.<sup>102</sup> Hundreds of people were crowded together in the blazing heat and tossed back and forth with the ship's movement, especially during bad weather.<sup>103</sup> Enslaved captive Olaudah Equiano, who survived the Middle Passage, wrote that “the closeness of the place, and the heat of the climate, added to the number in the ship, which was so crowded that each had scarcely room to turn himself, almost suffocated us.”<sup>104</sup>

Captives did not have much fresh air and their rooms were covered with human waste.<sup>105</sup> Rats and insects swarmed around them.<sup>106</sup> Low-quality food, as well as scarce water, led to widespread lack of nutrition and dehydration.<sup>107</sup> Filthy conditions and poor nutrition caused waves of sickness, including scurvy (a lack of vitamins B and C) and “bloody flux” (amoebic diarrhea or dysentery).<sup>108</sup> Highly contagious diseases—especially smallpox—spread fast in the overcrowded spaces.<sup>109</sup> Slave ships were filled with people who were very sick, dying, or dead.

Enslaved Africans also suffered physical and sexual violence at the hands of ships' crews.<sup>110</sup> Crew members moved people who had been captured to the top deck of the ship on a regular basis to force them to bathe and dance for exercise.<sup>111</sup> They often raped and impregnated women and girls.<sup>112</sup> Heavily armed crew members watched enslaved people carefully, and they threatened,

beat, tortured, and sometimes killed them, especially if they resisted or rebelled.<sup>113</sup>

There is also evidence that ship crews threw sick enslaved people overboard to prevent them from spreading disease to others and to claim insurance money for “lost” human cargo.<sup>114</sup> In one especially brutal case in 1781, an English slave ship captain ordered his crew to throw 132 Africans overboard because he had run out of supplies and his insurance company would only pay him if enslaved people

**Crews stripped enslaved Africans naked, chained them up, and forced them to lay down on their sides, or to lay head to feet, so that they could fit in as many people as possible. On English slave ships, each man had a space smaller than the size of a coffin.**

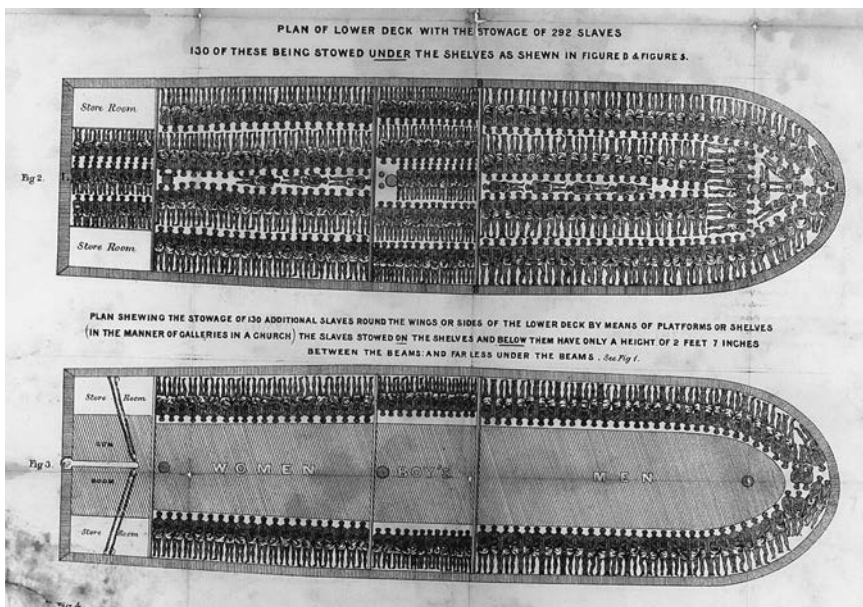
drowned, not if they starved to death.<sup>115</sup> During the worst storms, crews also tried to keep from sinking by throwing enslaved people overboard to decrease the weight of the ship.<sup>116</sup> British insurance companies allowed this and paid ship captains for any human beings who their crews threw overboard to drown.<sup>117</sup>

The transatlantic slave trade and the Middle Passage had a sickening cost in human lives. European enslavers forced around 12.5 million enslaved Africans to cross the Atlantic Ocean between 1500 and 1866.<sup>118</sup> More than 14 percent of these people, around 1.8 million in total, died of sickness, neglect, abuse, murder, or suicide.<sup>119</sup>

The men, women, and children who survived the Middle Passage were then sold to local slave traders, merchants, or owners of plantations and forced labor camps.<sup>120</sup>

When their voyage across the Atlantic Ocean finally ended in North America, South America, or the Caribbean, enslaved Africans suffered “social death,” which meant they were now permanently separated from their home communities, cultures, and families.<sup>121</sup> They were outsiders in an unfamiliar place, surrounded by strangers with completely different cultures, religions, and languages. Enslaved Africans had to build new families, languages, cultures, and religious practices rooted both in the pre-colonial traditions of

COURTESY OF LIBRARY OF CONGRESS/ART IMAGES VIA GETTY IMAGES



Engraving “Stowage of the British Slave Ship ‘Brookes’ Under the Regulated Slave Trade Act of 1788” (circa 1788)

their homelands and the new cultures that they found in the Americas.<sup>122</sup>

### Slavery and the Founding of the United States

Starting in the late 1600s, enslaved people and the institution of enslavement became increasingly important to the colonial societies of North America that would later become the United States.<sup>123</sup> The southern English colonies of North America, which eventually included Maryland, Delaware, Virginia, the Carolinas, and Georgia, began trafficking more and more enslaved people as the 1700s went on.<sup>124</sup>

These colonies gradually built economies and societies that depended heavily on enslavement for growing cash crops to sell in international markets.<sup>125</sup> In the colonies of the Upper South, including Maryland, Virginia, Delaware, and North Carolina, enslaved people grew tobacco. Enslaved people in the low country and coastal plains of the Carolinas and Georgia grew rice and indigo (a plant for making blue dye).<sup>126</sup>

Enslavers who forced enslaved people to labor in agricultural production exploited not only their physical strength, but also their intellect, innovation, and skill.

**Enslavers who forced enslaved people to labor in agricultural production exploited not only their physical strength, but also their intellect, innovation, and skill. Growing rice and indigo, for instance, required skilled labor and knowledge of specialized techniques for successful production. In fact, rice and indigo growing was already highly developed along the western coast of Africa, and, later the Caribbean, where people of African descent had already innovated several production techniques. Enslavers were eager to buy enslaved people who already had these specialized agricultural skills.**

Growing rice and indigo, for instance, required skilled labor and knowledge of specialized techniques for successful production.<sup>127</sup> In fact, rice and indigo growing was already highly developed along the western coast of Africa, and, later the Caribbean, where people of African descent had already innovated several production techniques.<sup>128</sup> Enslavers were eager to buy enslaved people who already had these specialized agricultural skills.<sup>129</sup>

Human trafficking in enslaved people was not limited to the southern colonies.<sup>130</sup> Whites in northern colonies also trafficked enslaved people, and enslavement became a feature of life in every northern colony.<sup>131</sup> In most New England colonies, enslavement was not a major institution, but in colonies farther south, such as New York, enslavement was often a part of daily life.<sup>132</sup> For example, one-fifth of New York City's population was enslaved in 1746, making it the second largest slaveholding city in the 13 original English colonies behind only Charleston, South Carolina.<sup>133</sup>

By the time white English colonists began to complain about their mistreatment by the British government and began comparing their lack of rights in the British Empire to enslavement, the real enslavement of people of African descent was already well established in all 13 original British colonies.<sup>134</sup> Five hundred thousand enslaved African American people, who made up 20 percent of the entire colonial population, knew the real horrors and trauma of enslavement.<sup>135</sup>

### The American Revolution

When white colonists declared their independence from Great Britain, they explained their actions by saying that the King of England and the British government had taken away their freedom and their rights as “freeborn Englishmen.”<sup>136</sup> In the Declaration of Independence, Americans famously announced that “all men are created equal” and “that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”<sup>137</sup> At the same time, these same colonists bought and sold people of African descent who had no freedom and very few rights.

People who opposed the American Revolution were quick to point out the hypocrisy of these words.<sup>138</sup> Thomas Day, an Englishman who opposed enslavement, said that “[i]f there be an object truly ridiculous in nature, it is an American patriot, signing resolutions of independence with the one hand and with the other brandishing a whip over his affrighted slaves.”<sup>139</sup> Even white American colonists understood the hypocrisy of the Declaration of Independence.<sup>140</sup> Abigail Adams, an opponent of enslavement from New England, the wife of John Adams, and a future first lady of the United States, wondered just how strongly white colonists felt about human liberty

when they were “accustomed to deprive their fellow citizens of theirs.”<sup>141</sup>

The founders of the United States, especially those who owned enslaved people and profited from enslavement, were well aware of these contradictions and they tried

descent would not let them. They tested the new nation's ideas of freedom during the American Revolutionary War (1775 to 1783).<sup>150</sup>

Around 30,000 to 40,000 people (and maybe as many as 100,000 people) escaped their enslavement during

the American Revolution.<sup>151</sup>

Virginia's colonial governor, John Murray, Earl of Dunmore, quickly took advantage of enslavement in the colonies by promising freedom to any enslaved man who fought for the British Army against the Americans.<sup>152</sup> Some male freedom seekers did join the British Army, but large numbers died from smallpox during their service.<sup>153</sup>

Others, including many women and children, took advantage of

wartime chaos to escape to areas where the British Army was strong.<sup>154</sup> The massive number of freedom seekers greatly damaged enslavement in the lower southern states.<sup>155</sup> For instance, around 30 percent of South Carolina's enslaved population left or died during the Revolution.<sup>156</sup>

Some states tried to solve this problem by promising freedom to enslaved men who fought on the side of the Americans.<sup>157</sup> Other states recruited free African American men to boost the size of the small American army.<sup>158</sup> Even though they were smaller in number than whites, free African American men were more likely to volunteer for military service and to serve longer than whites because they wanted both independence for the United States and greater rights for themselves.<sup>159</sup> Overall, around 9,000 free or enslaved African American men served alongside white revolutionaries in integrated military units to fight for American independence.<sup>160</sup>

African Americans' struggles for freedom during the American Revolution led to the end of the enslavement in most of the northern states where the enslaved population was small and local enslavement was less central to the economy.<sup>161</sup> Enslaved people used the revolutionary ideals of freedom to convince northern judges and the general public to end enslavement.<sup>162</sup>

When enslaved people in Massachusetts sued for their freedom, the state courts decided that enslavement went against the state's new constitution, which said that “all men are born free and equal.”<sup>163</sup> Enslavement ended there in 1783.<sup>164</sup> Nearby, the state of Vermont approved a new constitution that outlawed enslavement completely in 1777.<sup>165</sup> States farther south, such as New

**Thomas Jefferson, the author of the first draft of the Declaration of Independence, owned around 600 enslaved people over the course of his lifetime. He willingly freed only 10 of the 600 people who he had enslaved over the course of his life. Four of those 10 people were his own children with Sally Hemings, an enslaved woman who he owned as his property and who he never freed.**

to downplay them. They knew that enslavement made them, and their independence movement, look hypocritical, but they also wanted to continue to profit from the stolen labor of enslaved people.

Thomas Jefferson, the author of the first draft of the Declaration of Independence, owned around 600 enslaved people over the course of his lifetime.<sup>142</sup> His original draft of the Declaration of Independence openly criticized the transatlantic slave trade, which he called “a cruel war against human nature itself, violating it's [sic] most sacred rights of life and liberty,” but he blamed it almost all on King George III of England.<sup>143</sup> Jefferson claimed that the king not only failed to stop the slave trade, but also that the king encouraged enslaved people to rise up and kill white colonists.<sup>144</sup>

Embarrassment over enslavement, and the hope to keep making money from it, was clear when the Continental Congress rejected this part of the Declaration and voted to remove it.<sup>145</sup> Jefferson explained the rejection in his notes.<sup>146</sup> Representatives from South Carolina and Georgia depended on enslavement and wanted to continue in the trafficking of humans.<sup>147</sup> Men from the northern colonies were embarrassed by the criticism of the slave trade because they were highly involved in shipping enslaved Africans across the Atlantic.<sup>148</sup> The final version of the Declaration of Independence only mentioned enslavement indirectly by claiming that King George III was trying to cause “domestic insurrections” (code words for rebellions by enslaved people) in the colonies.<sup>149</sup>

The founders of the United States tried to dodge the issue of enslavement, but enslaved and free people of African



York and Pennsylvania, depended much more on enslavement and so passed gradual emancipation laws to cover enslavers' loss of profits.<sup>166</sup> These laws required children born to enslaved mothers to go through a long indenture (up to 28 years) and then be set free.<sup>167</sup>

Southern states that profited the most from enslavement kept and rebuilt it, but the process looked different in the Upper and Lower South.

States in the Upper South—Virginia, Maryland, and Delaware—temporarily began to relax their laws against freeing enslaved people.<sup>168</sup> “Manumission,” the legal process by which enslavers freed enslaved people or allowed them to save money and purchase their freedom, became more common.<sup>169</sup> This was partly because the Revolutionary War had hurt the market for tobacco and made enslavement less profitable in the Upper South.<sup>170</sup> Revolutionary ideas about human freedom also motivated some of this manumission, although with limits.<sup>171</sup> For instance, Virginian George Washington, leader of the revolutionary army and the first president of the United States, freed all of the people he enslaved, but only upon his death.<sup>172</sup>

Washington, however, was not the norm. Thomas Jefferson, the next slaveholder from Virginia to win the presidency, willingly freed only 10 of the 600 people who he had enslaved over the course of his life.<sup>173</sup> Four of those 10 people were his own children with Sally Hemings, an enslaved woman who he owned as his property and who he never freed.<sup>174</sup>

Jefferson's fellow white southerners in the Upper South increasingly stopped manumission when they found that selling “surplus” enslaved people to cotton growers in South Carolina and Georgia could be a profitable replacement for tobacco.<sup>175</sup> Meanwhile, the Lower or Deep South states rebuilt their plantation economies by buying enslaved people from the Upper South and trafficking in large numbers of enslaved Africans from the transatlantic slave trade.<sup>176</sup>

Overall, the American Revolution created a new nation that was increasingly divided into three regions: The North, where enslavement was immediately or gradually ended; the Upper South, where older patterns of enslavement were

changing; and the Lower South, where enslavement remained an important and growing part of the economy.

### The New Cotton Economy and the Expansion of Slavery

Instead of dying out after the American Revolution, enslavement became the economic lifeblood of the United States, North and South. After winning independence, the United States built one of the largest and most profitable enslaved labor economies in the world.<sup>177</sup> Between the end of the American Revolution in 1783 and the start of the Civil War in 1861, roughly the length of one human lifetime, the enslaved population of the United States increased almost five times from just under 650,000 enslaved individuals to almost four million enslaved people.<sup>178</sup>

Two major processes made this possible. First, new technologies for producing cotton increased the value of enslaved people's labor and encouraged the expansion of enslavement into lands in the Deep South.<sup>179</sup> Second, white Americans adopted a national constitution that protected enslavement and gave proslavery white Americans outsized political power in the federal government.<sup>180</sup> This power allowed enslavers to increase the profits of enslavement and to enjoy those profits with little regulation by the federal government.

Starting in the 1790s new technologies made enslavement more profitable than ever in North America. A new machine, the cotton gin, made it much easier and faster to remove the seeds from short-staple cotton,

COURTESY OF PICTURES FROM HISTORY/UNIVERSAL IMAGES GROUP VIA GETTY IMAGES



a sturdy breed of cotton that could be grown in many different climates and soils in the South.<sup>181</sup> Cotton growing breathed new life into the institution of enslavement. Enslavers looked for new lands to the west to expand cotton plantations.<sup>182</sup>

To help these land-hungry cotton planters, the United States government increasingly pressured Native Americans in the Deep South to give up their homelands.<sup>183</sup> Native Americans in the southeastern United States, some of whom had adopted the practices of white colonizers such as growing cotton and owning enslaved African Americans, resisted this pressure.<sup>184</sup> The U.S. government eventually used a brutal policy of removal in which soldiers rounded up Native Americans, removed them from their land, and force marched (or sailed) them hundreds of miles to lands west of the Mississippi River.<sup>185</sup> People of African descent enslaved by Native Americans were also forcibly moved west with their enslavers, and some Native Americans even purchased more enslaved people to take west with them.<sup>186</sup> Thousands of Native Americans and an unknown number of enslaved African Americans died from disease and neglect along the way and the removal process came to be known as the “Trail of Tears.”<sup>187</sup> As white southern cotton planters moved into Native homelands, the removal, death, and land theft suffered by Native Americans went hand-in-hand with the widespread enslavement and forced relocation of African Americans.

### Slavery in the New U.S. Constitution

Around the same time that the cotton gin took off, southern enslaving states left a permanent mark on the American legal system by shaping the U.S. Constitution to meet their needs in upholding enslavement. During the Constitutional Convention in 1787, southern proslavery representatives pushed for protections for enslavement, partly by threatening not to sign onto the new Constitution.<sup>188</sup>

A major protection for enslavement in the Constitution came in a clause that prohibited Congress from outlawing U.S. participation in the transatlantic slave trade for another 20 years.<sup>189</sup> During those important 20 years, slave ships legally brought around 86,000 enslaved Africans to the United States.<sup>190</sup> Congress was also required, and given the power, to use military force to stop “Insurrections” and “domestic violence,”<sup>191</sup> which would have included rebellions by enslaved people.<sup>192</sup> Proslavery southerners also ensured that the Constitution included a fugitive slave law, which required the return of enslaved people who sought freedom across state lines.<sup>193</sup>

The most important proslavery constitutional policy was the 3/5 Clause. The Constitution was built on the idea of representative government and that Americans should elect people to represent their needs and interests in the federal government. In the U.S. House of Representatives, the number of representatives each state got was based on population with the idea that more populous states should get more representation than less populous states.<sup>194</sup> This part of the Constitution raised controversial questions: Was it reasonable or fair for southern states with large numbers of enslaved people to count those people toward their Congressional representation when they allowed enslaved people no vote, no political rights, and very few legal rights? If enslavers usually treated enslaved people as property, why should they suddenly be counted as people for purposes of representation?<sup>195</sup> People who opposed counting enslaved people toward Congressional representation came mostly from the North and they argued that the enslaved population should give little or no boost to southern states’ power.<sup>196</sup> At the same time, enslavers demanded to count the enslaved as whole people, not because they believed enslaved people were equal to white Americans, but because they wanted more voice in Congress and to counterbalance the power of the more populous northern states.<sup>197</sup> The authors of the Constitution reached a compromise.<sup>198</sup> States would get to count each enslaved person toward their representation in Congress, but each enslaved individual would only count as 3/5 (or 60 percent) of a free white person when it came time to determine how many representatives each state received in the House.<sup>199</sup> This was an enormous benefit for enslavers. They could continue to treat enslaved people as property but still get to count 60% of the enslaved population toward getting more power in Congress.<sup>200</sup>

### The Founding Fathers embedded slavery into the U.S. Constitution by:

- Protecting the transatlantic trafficking of enslaved people for another 20 years, resulting in the trafficking of 86,000 Africans.
- Giving power to Congress to use military force to stop insurrections, including slave rebellions.
- Requiring the return of enslaved people who fled towards freedom across state lines.
- Counting enslaved people as 3/5 of a person



COURTESY OF JOHN PARROT/STOCKTREK IMAGES VIA GETTY IMAGES

## More Than 50 percent of U.S. Presidents from 1789 to 1885 enslaved African Americans



The first twenty-one Presidents seated together in The White House. The enslavers are shaded in red.

Representation in Congress also had a major influence on presidential elections.<sup>201</sup> The Constitution set up an electoral college in which a group of representatives (called “electors”) voted to choose the next president. Each state got a number of electors equal to the number of senators and representatives that it had in Congress.<sup>202</sup> In this way, enslaving states, which gained more representatives in Congress from the 3/5 Clause, automatically gained more presidential electors, and more power to influence presidential elections, too.<sup>203</sup>

At the same time, some historians argue that white southerners would have gone even further to make the U.S. Constitution a proslavery document if they did not have to compromise with representatives from the northern states.<sup>204</sup> The words “slave” and “slavery” could not be found anywhere in the new Constitution. Instead, it used code words for enslaved people such as “Person held to Service or Labour”<sup>205</sup> or just “other Persons.”<sup>206</sup> Some historians see this as a sign that white northerners who helped write the Constitution were growing less comfortable with enslavement and did not want the nation’s founding document to say openly that owning human beings as property was legal.<sup>207</sup>

The Constitution also gave Congress the power to end U.S. participation in the transatlantic slave trade in 1808, rather than leaving it completely open, and the fugitive slave law was vague and not well enforced.<sup>208</sup> Finally, the 3/5 Clause probably disappointed proslavery southerners who pushed hard for enslaved people to be counted as whole people, rather than as 60 percent of a person, for purposes of representation in Congress.<sup>209</sup>

No matter what the Constitutional Convention intended to do, the new Constitution ended up giving proslavery southerners outsized power in the federal government, strengthening the institution of enslavement.<sup>210</sup> Northerners complained that the enslaving states’ 60 percent boost in Congressional representation and in the electoral college, both due to the 3/5 Clause, gave enslavers too much power over national politics. Some northerners tried to get rid of the 3/5 Clause.<sup>211</sup>

The linking of Congressional representation to presidential electors also helped proslavery southerners control the White House. Enslavers Thomas Jefferson, in 1800, and James K. Polk, in 1846, would not have won election to presidency without the South’s extra electoral votes based on counting enslaved people.<sup>212</sup>



The power of proslavery white southerners was evident throughout the United States' early government. Fifty percent of the nation's pre-Civil War presidents were enslavers.<sup>213</sup> Between George Washington's election and 1850, enslavers held the presidency for 50 years, the position of Speaker of the House for 41 years, and the chair of the House of Representatives Ways and Means Committee for 42 years.<sup>214</sup> Control of the presidency also meant control of the U.S. Supreme Court, where presidents chose justices to serve for life. Enslavers made up 18 of the 31 justices (or 58 percent) who sat on the U.S. Supreme Court before 1850.<sup>215</sup> Ultimately, throughout American history, more than 1,700 Congressmen, representing 37 states, once enslaved Black people.<sup>216</sup> They did not only represent the South, but also every state in New England, much of the Midwest, and many Western states.<sup>217</sup>

Proslavery southerners' control of Congress, the presidency, and the U.S. Supreme Court increased the lifespan of enslavement and the geographic area where it was legal. Together, proslavery officials in the federal government paved the way for enslavement's expansion into new states and territories in the West by letting enslavers move without regulation into the large geographic area south of the Ohio River.<sup>218</sup>

Between the ratification of the Constitution in 1788 and the start of the Civil War in 1861, Congress approved

the creation of nine new enslaving states (roughly 43 percent of all 21 new states).<sup>219</sup> This expansion of enslavement included parts of the new territory of Louisiana, which the United States purchased from France in 1803. French Louisiana had long been an enslaving colony where sugar production based on enslaved labor was becoming a major source of wealth.<sup>220</sup> Louisiana became a state in 1812 and, by the time of the Civil War, produced one-quarter of the world's sugar and was the second richest state.<sup>221</sup> In addition to creating this major new enslaving state, enslavers won another big victory in 1820 when Congress voted, after protests by antislavery

**Between 1790 and 1859, slave traders sold approximately 845,720 people within the U.S. They made enormous fortunes in this trafficking of human beings, amounting to more than \$159 million between 1820 and 1860.**

politicians, to let Missouri become a state with a constitution that both allowed enslavement and banned free African Americans from settling there.<sup>222</sup> The major tradeoff that opponents of enslavement got from the Missouri Compromise was the policy that enslavement would be illegal in all parts of the Louisiana Territory located north of Missouri's southern border.<sup>223</sup> For the time being, white Americans reached an unsteady political peace over enslavement's westward expansion.

## IV. The Lives of Enslaved People During the Height of the Domestic Slave Trade

### Domestic Trafficking of Enslaved People

Cotton solidified enslavement's importance to the United States, especially in the Deep South where the crop grew the best. The demand for enslaved people in the Deep South allowed enslavers in the Upper South to profit from enslavement in a new way: the interstate trafficking of enslaved people. Enslavers on worn-out tobacco farms in Maryland, Delaware, and Virginia could not grow cotton themselves, but they could sell enslaved people to the growing cotton plantations farther south.<sup>224</sup>

Between 1790 and 1859, slave traders sold approximately 845,720 people within the U.S.<sup>225</sup> They made enormous fortunes in this trafficking of human beings,

amounting to more than \$159 million between 1820 and 1860.<sup>226</sup> Slave traders force marched, or sailed, hundreds of thousands of enslaved people to new territories along the Mississippi River or the Gulf of Mexico. Today's states of Alabama, Mississippi, Louisiana, and (later) Texas were built on the brutal forced migration of the enslaved.<sup>227</sup>

The trafficking of enslaved people destroyed enslaved people's families, communities, and their bodies. Enslavers and slave traders often ambushed enslaved people with a surprise sale so that they could not attempt to run away or plead to stay with their families.<sup>228</sup> A person "sold south" was almost always separated from their family members and home communities forever.

Parents and children, husbands and wives, brothers and sisters, and extended family members and friends never saw each other again.<sup>229</sup>

On top of the grief and mental and emotional trauma of family separation came physical violence. Slave traffickers usually chained the hands and feet of enslaved people and then chained several individuals together in a line (called a “coffle”). Then, traffickers force marched their captives by gunpoint to the next place of sale.<sup>230</sup>

Newly purchased people might be added to the coffle along the way, or enslaved people might be sold to a string of different traders as they moved South.<sup>231</sup> Some enslaved people might make part of their forced journey via ship or riverboat.<sup>232</sup> But it was common practice to march enslaved people hundreds of miles over land to their destinations.<sup>233</sup> Handcuffs and chains rubbed their skin raw, their feet ached and bled, and they suffered from a lack of food, clothing, shelter, and sleep.<sup>234</sup>

Charles Ball, an enslaved man who was bought by slave traffickers Maryland and forced to march to South Carolina, later remembered: “I seriously meditated on self-destruction, and had I been at liberty to get a rope, I believe I should have hanged myself at Lancaster... I had now no hope of ever again seeing my wife and children, or of revisiting the scenes of my youth.”<sup>235</sup>

At the end of their forced march south, enslaved people faced the terrifying process of being sold to their new enslavers. Many of the enslaved ended up in the city of New Orleans, the human trafficking center of the Deep South.<sup>236</sup>

appealing to future buyers and bring a higher price upon sale.<sup>238</sup> Later, traders who trafficked in enslaved people sold them in a showroom next to the pen.<sup>239</sup>

As historian Walter Johnson has written, one of the great obscenities of enslavement was that enslavers forced enslaved people “to perform their own commodification.”<sup>240</sup> Slave traders coached enslaved people on how to act and what to say to potential buyers, to hide any injuries or disabilities, and to highlight their valuable skills.<sup>241</sup> When sales began, enslaved people were required to line up by gender and height, separate from any family members.<sup>242</sup> Buyers questioned and examined them, forcing them to open their mouths to show their teeth and to undress to reveal any signs of illness, disability, disease, or scars from previous whippings (which whites saw as signs of disobedience).<sup>243</sup>

Enslaved people with specialized skills, such as the ability to play a musical instrument, might perform for buyers, while slave traders forced everyone to parade around and dance to show their physical well-being.<sup>244</sup> Women and girls often suffered the most violent inspections of their bodies. Buyers took them behind closed doors, stripped them naked, and forcibly examined their breasts and genitals to see if they would be good “breeders” and were free of sexually transmitted infections.<sup>245</sup>

The moment of sale was extremely painful and traumatic. Buyers purchased enslaved people based on racist stereotypes about African Americans’ capabilities and skills, which were often connected to skin color, gender, and physical size.<sup>246</sup> Younger enslaved

African American men and women, as well as teenagers, often sold at high prices as “prime” field hands to pick cotton and do other hard labor.<sup>247</sup> Enslaved men with specialized knowledge and skills, such as carpentry, barrel making, or driving carts, also sold for higher prices.<sup>248</sup> Enslavers often bought younger enslaved women to work in the cotton fields, but also valued their knowledge and skills in home-based work such as cooking, washing clothes, sewing, cleaning, and childcare.<sup>249</sup> Finally, elderly

people and very young children usually were sold for a lot less money because white buyers viewed their labor and skills as less valuable.<sup>250</sup>

Some buyers specifically bought African American people that they could subject to sexual and reproductive

**Some buyers specifically bought Black people that they could subject to sexual and reproductive violence. The “fancy trade” was the term for selling young women and girls to white men for the purpose of constant rape and/or forced sex work in brothels. Other enslavers bought young mothers (with or without their children) because a woman who had recently given birth to children showed that she was able to have more children in the future to enrich her buyer.**

Enslaved people waited until their day of sale in a high-walled outdoor yard, called a “slave pen,” where they were crowded together with 50 to 100 people.<sup>237</sup> Upon arrival, traffickers allowed enslaved people food, rest, baths, and new clothing to make them look more

violence.<sup>251</sup> The “fancy trade” was the term for selling young women and girls to white men for the purpose of constant rape and/or forced sex work in brothels.<sup>252</sup> Other enslavers bought young mothers (with or without their children) because a woman who had recently given birth to children showed that she was able to have more children in the future to enrich her buyer. Pregnant and breastfeeding women could be forced to nurse all the children, African American and white, on a plantation to free up other enslaved mothers for field work.<sup>253</sup>

All of these factors often meant that even if an enslaved family had managed to stay together up to this point, they would now face permanent separation. Solomon Northup, a free African American man from New York who was kidnapped and sold into enslavement, remembered the case of an enslaved woman named Eliza. Eliza begged to be sold with her two children, Emily, who was seven or eight years old and Randall, who was four to five years old. Slave traders sold off Randall to another buyer and refused to sell Emily to Eliza’s buyer because they hoped to sell the tiny girl as a “fancy” to a wealthy enslaver when she was a little older. Northup wrote that the sale of her children was absolutely soul crushing for Eliza. She died young from the grief of losing them.<sup>254</sup>

### Cotton and Capitalism

Enslavers were capitalists, and like all capitalists, they strived for profit maximization. They wanted to get the most work out of enslaved people by pushing them up to, but not beyond, their physical breaking point. To do this, enslavers used violence, or the threat of violence, to make the enslaved work harder and faster and to maintain a constant, carefully calculated rate of production. The result for enslaved people was a nearly endless daily round of work under the constant threat of violence.<sup>255</sup>

Once enslaved people were sold to the Deep South, their new enslavers subjected them to a lifetime of brutal, backbreaking work growing cotton, which was a never-ending, year-round process.<sup>256</sup> Enslaved people began every spring by plowing the land and planting cotton seeds. For the next several months they hoed the fields to kill grass and weeds that might damage the fragile young cotton plants.<sup>257</sup> Starting in August, enslaved people worked from sunup to sundown to pick cotton, sometimes working by the light of the moon to finish. They only stopped for a 10- to 15-minute meal break per day.<sup>258</sup> This exhausting workday did not end when the cotton picking was done. Everyone still had to cut wood, feed farm animals, and do all of the other daily tasks that kept the plantation running. Then, enslaved people went back to their cabins, made their

evening meals, and cooked food to eat in the cotton fields the next day.<sup>259</sup>

The cotton-picking season went on for months into the winter.<sup>260</sup> After the cotton season ended, enslaved people harvested the corn crop, which, according to Solomon Northup, was used for “fattening hogs and feeding slaves.”<sup>261</sup> After the corn harvest was complete, enslaved people burned all the dead corn and cotton plants and began the process of planting the next year’s crops all over again.<sup>262</sup>

**The American colonial Slave Codes created a new type of slavery that was different than the slavery which existed in pre-modern times.**

- These laws enslaved babies at birth, for their entire lives, and for the entire lives of their children, and their children’s children.
- These laws denied political, legal and social rights to free and enslaved Black people alike in order to more easily control enslaved people.
- These laws divided white people from Black people by making interracial marriage a crime.

*Some of these laws survived well into the 20th century. The Supreme Court only declared that outlawing interracial marriage was unconstitutional in 1967.*

To make sure that enslaved people worked as hard and as quickly as possible, enslavers came up with the “pushing system.” The main idea behind the pushing system was that every enslaved person should farm a certain number of acres of cotton per year.<sup>263</sup> This number kept increasing, from five acres per enslaved person in 1805 to double that number (10 acres) by the 1850s.<sup>264</sup> In fact, many of today’s financial accounting and scientific management practices to increase profits had their early beginnings among enslavers in the U.S. South and the Caribbean who wanted to perfect the pushing system.<sup>265</sup>

To make sure that the production of cotton and profits kept increasing, enslavers intensified the physical violence.<sup>266</sup> Frederick Douglass remembered that sleep-deprived enslaved people who accidentally slept past sunrise were whipped for lateness.<sup>267</sup> Solomon Northup, the free African American man kidnapped



and sold into enslavement in Louisiana, remembered that enslavers followed enslaved people into the fields on horseback and whipped them if they stopped work

hanging out. Years later, when he wrote about his life, he remembered that “[m]y feet have been so cracked with the frost, that the pen with which I am writing might be laid in the gashes.”<sup>277</sup>

**Enslavers also forced sexual intercourse between enslaved people—an act historian Daina Ramey Berry has called third-party rape—so that they could “breed” more children to make more money.**

or fell behind.<sup>268</sup> He also remembered that each adult was responsible for picking 200 pounds of cotton per day and that those who did not pick enough got whipped. Even picking less than one’s own personal best daily weight record, or accidentally breaking a branch on a cotton plant, resulted in whipping.<sup>269</sup> Northup himself was whipped for failing to pick cotton fast enough when he was sick and exhausted.<sup>270</sup>

Southern slave codes, the state and local laws that enforced enslavement, became more severe to support the increased brutality and profitability of enslavement, especially in the Deep South. Many southern states outlawed all meetings of enslaved people—including religious observance—without supervision by white people, prohibited teaching enslaved people to read and write, and banned enslaved people from trading.<sup>271</sup> These laws also increased patrols, the police forces that enforced these laws.<sup>272</sup> Finally, new laws made it much more difficult for enslaved people to achieve their freedom by banning “manumission,” voluntary emancipation by enslavers. Altogether, these developments in slave codes aimed to maintain the racial caste system by cracking down on all resistance by enslaved people and to prevent them from ever getting their freedom.<sup>273</sup>

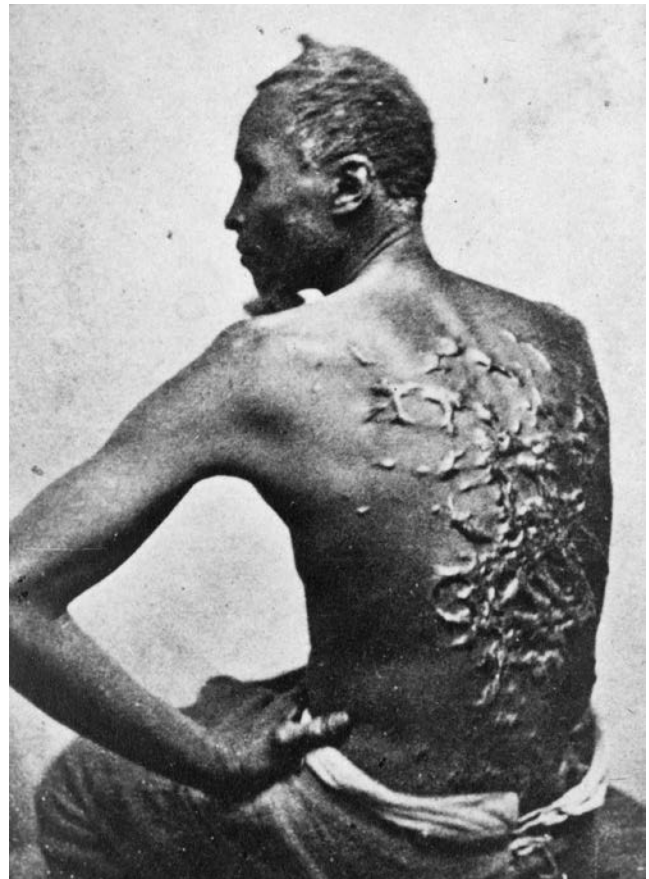
### Neglect and Violence

Living conditions for enslaved people showed enslavers’ inhumane, brutal emphasis on profit maximization. Most of the enslaved lived in small, poorly built cabins. Gaps between the log walls were so big that the wind and rain constantly blew in.<sup>274</sup> Furniture was either rare or non-existent. Solomon Northup’s bed “was a plank [of wood] twelve inches wide and ten feet long.”<sup>275</sup>

Frederick Douglass reported that enslaved people on the Maryland tobacco plantation where he was born had no beds at all; they slept on the cold dirt floor with only a rough blanket.<sup>276</sup> On the coldest nights, the young Douglass would steal a sack used for carrying corn and sleep inside it with his head inside and his feet

Besides cold, one of the greatest things Douglass suffered was hunger. Douglass’s enslaver fed enslaved children mashed-up boiled corn in a trough on the ground. The children were then forced to eat “like so many pigs” and “[h]e that ate fastest got most.”<sup>278</sup> Solomon Northup remembered a similar lack of food on the Louisiana plantation where he lived for 10 years. Each person received only three and a half pounds of bacon and a peck of corn (about eight dry quarts) per week.<sup>279</sup>

COURTESY OF LIBRARY OF CONGRESS



Formerly enslaved person named Gordon, also known as “Whipped Peter,” showing his scarred back at a medical examination, Baton Rouge, Louisiana. (1863)

Enslaved people, particularly women and girls, also suffered sexual and reproductive violence. Enslavers frequently raped and impregnated enslaved women and girls and increased their profits by doing so.<sup>280</sup> Frederick Douglass pointed out that since children born to enslaved women were automatically enslaved

at birth, enslavers often owned and sold their own children as property.<sup>281</sup> Additionally, Douglass remembered that white women often harassed enslaved victims of rape and their mixed-race children by insisting on their sale or punishing them even more cruelly than other enslaved people.<sup>282</sup>

Enslavers also forced sexual intercourse between enslaved people—an act historian Daina Ramey Berry has called third-party rape—so that they could “breed” more children to make more money.<sup>283</sup> Frederick Douglass remembered that a poor white farmer named Edward Covey owned only one enslaved woman named Caroline and had to rent additional enslaved people from others (a practice called hiring out). To increase his own wealth, Covey forced Caroline and one of the rented enslaved men, who was already married, to have sex. Not long after, Caroline gave birth to twins. Douglass remembered that “[t]he children were regarded as being quite an addition to his wealth.” Sexual violence tripled Covey’s wealth—from one to three enslaved people—within just one year.<sup>284</sup>

Finally, enslavers also used the bodies of enslaved people, living and deceased, for medical and scientific experimentation. For an in-depth discussion of medical experimentation on enslaved people and African Americans throughout U.S. history, please see Chapter 12, Mental and Physical Harm and Neglect.

### **Enslaved Communities and Cultures: Resilience, Resistance, and Rebellion**

Enslaved people of African descent defied enslavers’ efforts to dehumanize them by creating resilient families and communities, vibrant cultures, and distinctive religious and intellectual traditions. Family ties, community ties, cultural practices, and religious traditions ensured African American survival. They were the foundation of African American resistance to enslavement and the struggle for human rights both before emancipation and long afterward.

Family life was the building block of enslaved life in the American South.<sup>285</sup> Although enslaved families were always in danger of being broken apart by sale, enslaved people built strong extended family ties and fought to preserve these relationships.<sup>286</sup> Husbands and wives struggled to have enslavers recognize their marriage ties by claiming their right to live together in their own private cabins, or to visit spouses who lived on different plantations.<sup>287</sup> Enslaved parents chose their children’s

names to honor their own family ties, not according to the will of their enslavers, and frequently named children after grandparents, aunts, uncles, and cousins.<sup>288</sup> Enslaved people often chose their own last names, even if enslavers refused to recognize them, and they passed down their skills to their children.<sup>289</sup> Enslaved

**Family life was the building block of enslaved life in the American South. Although enslaved families were always in danger of being broken apart by sale, enslaved people built strong extended family ties and fought to preserve these relationships.**

people also rebelled against the sale of their family members, sometimes by fleeing to see their relatives on distant plantations.<sup>290</sup>

Enslaved people built close communities bound together by blood, marriage, and adoptive family ties. On larger plantations, multiple extended family groups lived in the same “slave quarters” and were often linked to each other through marriages or adoptive kin relations.<sup>291</sup> For instance, Frederick Douglass remembered that the enslaved children on the Maryland plantation where he was born referred to older enslaved men as their uncles, demonstrating both their respect for their elders and the close family-like relationships that grew between community members unrelated by blood.<sup>292</sup> These close ties can best be seen in cases of young enslaved children orphaned by the sale or death of their parents: extended family members and non-kin alike frequently raised these children along with their own children.<sup>293</sup>

Close-knit families and communities ensured that cultural practices, language, and oral histories were passed down to the next generation. “Slave quarters,” the clusters of cabins where the enslaved lived, were often distant from the “big house” of the enslavers and allowed the enslaved some privacy to pray, dance, sing, tell stories, rest, and tend to their homes.<sup>294</sup> The lively cultural spaces that enslaved people created for themselves allowed for the persistence of elements of African language, music, medicine, and storytelling in African American culture across generations.<sup>295</sup>

Religious life was often the heart of family and community experience for enslaved people, creating spaces for freedom of expression, cultural resilience, and resistance. Enslaved people who were stolen from Africa continued the spiritual practices of their homelands, whether indigenous West African religions or Islam.<sup>296</sup> Over time, enslaved communities fused elements of

African religious practice—including song, dance, call and response, and healing practices—with Protestant Christianity.<sup>297</sup> They created a distinctive American religious culture that taught a message of liberation, a “gospel of freedom.”<sup>298</sup> Enslaved preachers emphasized freedom from enslavement, both in the afterlife and on earth. They focused on Biblical liberation stories, such as Moses leading the Israelites out of bondage in Egypt, as well as stories that emphasized the power of the weak to defeat the mighty, such as David and Goliath.<sup>299</sup>

Enslavers tried to suppress this religious expression by prohibiting religious gatherings or by emphasizing parts of the Bible that said that “servants” should obey their “masters.”<sup>300</sup> Still, enslaved people resisted these efforts by meeting in secret to worship.<sup>301</sup> As a formerly enslaved woman named Alice Sewell remembered, “We used to slip off in the woods in the old slave days on Sunday evening way down in the swamps to sing and pray to our own liking. We prayed for this day of freedom. We come from four and five miles to pray together to God that if we didn’t live to see it, to please let our children live to see a better day and be free.”<sup>302</sup>

As Alice Sewell’s memory shows, religious and community life became a foundation for enslaved people’s resistance to the brutal and dehumanizing conditions of their enslavement. In some cases, religious and community ties catalyzed outright rebellions against

enslavement. The alleged Denmark Vesey conspiracy in Charleston, South Carolina in 1822, and the Nat Turner rebellion in Southampton County, Virginia in 1831, developed among communities of free and enslaved African Americans who believed strongly in the gospel of freedom.<sup>303</sup> Most often, though, enslaved communities, cultures, and spiritual beliefs made possible smaller forms of everyday resistance that pushed back against the relentless work and violence of enslavement. Enslaved people slowed down work, broke tools, or temporarily escaped to avoid abuse or brutal working conditions.<sup>304</sup> Everyday resistance forced enslavers to recognize enslaved people’s humanity and showed their deep longings to be free.

Ultimately, enslaved people in the United States created a distinctive *American Black* culture that was different from ancestral African cultures, white European cultures, or African-diaspora cultures elsewhere in the world. Distinctive African American artistic expression—especially music and dance—literary and linguistic styles, and culinary innovations, among many other practices, would shape mainstream American culture across centuries.

For a detailed discussion of African American cultural and artistic impact on the United States, see Chapter 9, *Control over Spiritual, Creative and Cultural Life*.

## V. Northern Complicity in Enslavement

### White New Englanders, the Slave Trade, and the Textile Industry

Although enslavement itself was disappearing in the North, white northerners’ participation in enslavement

White northerners had been involved in the transatlantic trafficking of enslaved people for a long time as shipping company owners, slave ship captains, and slave traders. For example, businessmen from the northern state of Rhode Island controlled most of the trade in captive human beings.<sup>305</sup> Slaving ships from Rhode Island brought rum to the coast of West Africa and traded barrels of the liquor for enslaved people, who they trafficked to North America.<sup>306</sup> Around 24 rum distilleries in the town of Newport, Rhode Island, fed this profitable trade.<sup>307</sup> By the time of the American Revolution, these Rhode Island merchants controlled two-thirds of the entire transatlan-

tic slave trade in the Thirteen Colonies and they held onto this control after U.S. independence.<sup>308</sup> When added together, white Rhode Islanders were responsible for bringing 100,000 enslaved Africans to North America.<sup>309</sup>

**Cotton grown by enslaved people in the South fed mills employing thousands of people across New England. By the time of the Civil War in 1861, New Englanders had invested more than \$69 million in cotton fabric production and operated 570 separate mills. Over 81,000 Americans worked in the New England textile mills and the total profits amounted to over \$79 million dollars per year.**

grew along with the southern cotton economy. White people in New England, for instance, profited from the transatlantic traffic in enslaved Africans, rum manufacturing, and cotton textile production.



Fifty thousand of these enslaved people were captives whom Rhode Island enslavers rushed to bring into the United States before Congress outlawed participation in the transatlantic trafficking of enslaved people in 1808.<sup>310</sup>

At the same time, textile mills, the factories which processed southern cotton into cloth, were the basis of early northern industrial growth.<sup>311</sup> Cotton grown by enslaved people in the U.S. South fed these mills and the mills employed thousands of people across New England.<sup>312</sup> By the time of the Civil War in 1861, New Englanders had invested more than \$69 million in cotton fabric pro-

southern cities and took it north to New York City where merchants packed it and shipped it to Europe.<sup>319</sup>

New York City was also the banking center of the United States and New York banks helped finance the expansion of enslavement in the South. Banks loaned money to enslavers to buy more land and more enslaved people.<sup>320</sup> Banks also accepted enslaved people as security for these loans, which meant that they could take and sell enslaved people if their enslavers failed to pay back their debts. For example, in 2005, JP Morgan Chase, the banking giant, wrote a formal apology because two banks that it now owned had taken 13,000 enslaved people as security for loans in the state of Louisiana. When enslavers could not pay back the loans, the banks ended up taking ownership of 1,250 of these people, and then most probably sold them.<sup>321</sup>

New York City was also strongly connected to southern enslavement through the insurance industry. Insurance companies insured the lives of enslaved, and paid enslavers if an enslaved person died.<sup>322</sup> Some insurance companies also insured shipments of trafficked enslaved people sold within the United States.<sup>323</sup> Some of these companies were the early ancestors of today's most important insurance companies, including New York Life, US Life, and Aetna.<sup>324</sup> American insurance companies' investment and complicity in enslavement was so widespread that the California government required all insurers who did business in the state to make their records of participation in enslavement open to the public.<sup>325</sup>

### Corporate Manufacturing Profits

A variety of New York businesses also profited from processing and manufacturing agricultural products grown by enslaved people into goods for consumers to buy. Brooks Brothers, still a well-known New York City clothing company, made money from enslavement in multiple ways. The company made fashionable, expensive clothing woven from southern cotton grown by enslaved people.<sup>326</sup> It also profited from making cheap clothing that enslavers bought to dress enslaved people.<sup>327</sup>

At the same time, sugar refineries, factories which processed raw sugar into a usable form, became a major New York industry, especially in the borough of Brooklyn. These factories processed thousands of pounds of raw sugar grown by enslaved people in Louisiana and Cuba.

**In 2005, JP Morgan Chase, the banking giant, wrote a formal apology because two banks that it now owned had taken 13,000 enslaved people as security for loans in the state of Louisiana. When enslavers could not pay back the loans, the banks ended up taking ownership of 1,250 of these people.**

duction and operated 570 separate mills.<sup>313</sup> Over 81,000 Americans worked in the New England textile mills and the total profits amounted to over \$79 million dollars per year.<sup>314</sup>

### Slavery and the Economic Power of New York City

New York City is a strong example of how northerners participated in and profited from enslavement. Captive Africans, enslaved by the Dutch West Indian Company, were part of the labor force that constructed the early walled street that eventually became Wall Street, the economic center of the United States.<sup>315</sup> Later, the street became the city's first slave market. City leaders decided in 1711 that whites who wanted to rent out enslaved African American or Native American people could only do so at the end of Wall Street next to the East River.<sup>316</sup>

Enslaved people became less and less common in the city after the state of New York passed a law in 1799 that gradually freed children born to enslaved mothers, and then outlawed enslavement completely in 1817.<sup>317</sup> But as enslavement itself was dying out, white New Yorkers were building strong economic ties to southern enslavement that brought millions of dollars in profit every year. New York City was the main destination of southern cotton and the center of the transatlantic cotton trade.<sup>318</sup> New York-based shipping companies gathered the cotton in

By 1855, fifteen New York City refineries were producing over \$12 million of sugar per year.<sup>328</sup>

The profits of sugar refining can still be seen in New York City today. Columbia University's Havemeyer Hall was funded by and named after one of the city's most important sugar refining families from the 1800s whose business relied on sugar grown by enslaved people.<sup>329</sup> The Havemeyer family built what was once the largest sugar refining factory in the world, the Domino Sugar Refinery, which still stands beside East River in Brooklyn.<sup>330</sup> Although the Brooklyn location is no longer running, the Domino Sugar brand, now owned by the ASR Group, continues to be processed in factories in New York, Maryland, and Louisiana.<sup>331</sup>

The legacies of enslavement in the sugar industry continue in the present-day. After the Civil War and the end of enslavement, southern states such as Texas and Louisiana rented out imprisoned African Americans to white sugarcane farmers. Many died in the brutal sugar production process.<sup>332</sup> The Louisiana State Penitentiary at Angola and the Texas State Penitentiary at Sugar Land also supported themselves, and profited these state governments, by growing and processing sugar cane on prison grounds.<sup>333</sup> Incarcerated individuals at Angola continued to process sugar to sell in the prison gift shop as recently as 2014.<sup>334</sup>

## VI. Slavery and American Institutions

### Historically White Universities and Religious Organizations

A wide range of U.S. colleges and universities, both private and public, profited from enslavement or ties to enslavers, while at the same time denying admission to African Americans for most of the nation's history. Almost all Ivy League universities and colleges can be included in this category.

Harvard University Law School was created in 1817 and funded largely by land donations from a wealthy merchant named Isaac Royall, Jr. Royall, who was the son of a human trafficker in enslaved people, owned multiple sugar plantations in the Caribbean and Latin America that were worked by enslaved people.<sup>335</sup> Other early Harvard donors made their money by trading enslaved people or goods produced by enslaved people in the Caribbean; smuggling enslaved Africans into the United States after Congress banned American participation in the transatlantic slave trade in 1808; or running textile mills fed by southern cotton.<sup>336</sup>

The wealth of Brown University (formerly known as the College of Rhode Island) was greatly tied to the human trafficking activities of its home state, Rhode Island. Members of the Brown family, early donors after whom the university is named, owned enslaved people and participated in the transatlantic slave trade.<sup>337</sup> University Hall, the oldest building on the Brown University campus, was partially built by enslaved people and made of wood donated by one of the state's largest slave trading companies.<sup>338</sup> South Carolina slave traffickers and enslavers also gave money to help fund the college.<sup>339</sup>

Other Ivy League schools have similar connections to enslavement. The University of Pennsylvania,<sup>340</sup> Princeton University,<sup>341</sup> Columbia University,<sup>342</sup> Yale University,<sup>343</sup> and Dartmouth College<sup>344</sup> count enslavers, slave traffickers, and/or proslavery defenders among their early donors, founders, trustees, administrators, building namesakes, faculty, students, and alumni.

Enslavement was also strongly linked to religious life and religious organizations in colonial America and the early United States. Some churches and religious colleges owned, bought, and sold enslaved people.<sup>345</sup> In the southern enslaving states, some churches raised money to buy enslaved people. Anglican and Episcopalian churches in Virginia during the 1600s and 1700s attracted new ministers by allowing them use of church-owned enslaved people.<sup>346</sup> Some wealthy churchgoers donated enslaved people to churches so that the profits of their labor could be used to fund free schools for poor white children.<sup>347</sup> In the 1700s and 1800s, many Virginia Presbyterian churches hired out enslaved people so that they could use the profits to pay ministers and fund church upkeep.<sup>348</sup>

Colleges with religious missions also owned and profited from enslaved people. Virginia's College of William and Mary, which was originally an Anglican college to train new ministers, started owning enslaved people by around 1704.<sup>349</sup> Enslaved people worked in the college's kitchens, dormitories, laundries, stables, and gardens, or on the college-owned tobacco plantation to raise money for student scholarships.<sup>350</sup> Although the college sold off many enslaved people during the American Revolution to pay off its debts, tearing them away from their families and

communities,<sup>351</sup> enslavement continued on the William and Mary campus until during the Civil War.<sup>352</sup>

Some colleges run by the Society of Jesus, a Catholic religious group better-known as the Jesuits, also depended on the lives and labor of the enslaved. The Jesuits who operated Georgetown College (now Georgetown University) owned plantations and hundreds of enslaved people.<sup>353</sup> The profits of these plantations funded the school.<sup>354</sup> In 1838, when the college was struggling due to a lack of funding, Jesuits sold 272 enslaved African American people to Deep South plantations so that they could pay off the school's debts.<sup>355</sup> Even though Jesuit leaders in Rome required that the enslaved people be kept together as families and given Catholic religious education in their new homes,<sup>356</sup> buyers in Louisiana failed to keep these promises.<sup>357</sup> Altogether, the mass sale of elders, men, women, children, and infants raised \$115,000 (equal to around \$3.3 million in 2016) to fund Georgetown College/University.<sup>358</sup>

### Direct Federal Government Investment and Participation

Finally, the federal government directly invested in, protected, and profited from the enslavement of African Americans. The early U.S. national banking system played an important role in funding the expansion of cotton growing and the interstate slave trade. For example, in the years 1831 to 1832, the Second Bank of the United States, the private bank that the United States used to handle all of the federal government's banking needs, gave five percent of all its loans to just one slave trading company in New Orleans.<sup>359</sup> By 1861, just under two percent of the entire budget of the United States went to pay for expenses related to enslavement.<sup>360</sup> These expenses included dealing with the illegal transatlantic slave trade;<sup>361</sup> colonization projects to remove formerly enslaved people from the United States and

settle them in other parts of the world;<sup>362</sup> enforcing fugitive slave laws;<sup>363</sup> and renting enslaved people to build federal military sites in the South.<sup>364</sup>

The U.S. federal government also actively participated in upholding enslavement because it directly controlled the nation's capital at Washington, D.C. The District of Columbia was formed from lands that once belonged to the two enslaving states of Maryland and Virginia.

**In the southern enslaving states, some churches raised money to buy enslaved people. Anglican and Episcopalian churches in Virginia during the 1600s and 1700s attracted new ministers by allowing them use of church-owned enslaved people. Some wealthy churchgoers donated enslaved people to churches so that the profits of their labor could be used to fund free schools for poor white children. In the 1700s and 1800s, many Virginia Presbyterian churches hired out enslaved people so that they could use the profits to pay ministers and fund church upkeep.**

As a result of this, Washington, D.C. had to carry over the laws of those two states, including laws supporting enslavement.<sup>365</sup> U.S. courts in Washington, D.C., took direct responsibility for punishing enslaved people and deciding cases involving the buying, selling, and inheritance of enslaved people.<sup>366</sup> Since there were no laws against moving enslaved people through D.C., and because D.C. was centrally located in the Upper South, the area also became an important location in the interstate slave trade.<sup>367</sup> Slave traffickers gathered and imprisoned enslaved people in D.C. "slave pens" where they waited to be moved to the Deep South and sold.<sup>368</sup> Solomon Northup, a free African American man who was kidnapped and sold into enslavement in 1841, remembered that he waited to be sold south in a "slave pen within the very shadow of the Capitol!"<sup>369</sup> That U.S. capitol building,<sup>370</sup> along with another major national landmark and symbol of democracy, the White House, was partially built by the labor of enslaved people.<sup>371</sup>

## VII. Enslavement in California

### Slavery's Expansion into the West

Even though large numbers of white northerners profited from the labor of enslaved people, many also began to worry about the place of enslavement in the nation's future and to question whether it should be allowed to

expand west into new American territories. Some of this new concern sprung from the abolitionist movement, a northern interracial movement of African American and white antislavery activists who pushed to end enslavement immediately.<sup>372</sup> Across the 1830s and 1850s,



American abolitionists published thousands of texts, and gave thousands of speeches, to convince their fellow citizens that enslavement was wrong and against the will of god.<sup>373</sup> They also helped thousands of freedom seekers escape enslavement via a secret network called the Underground Railroad.<sup>374</sup>

While most white northerners disapproved of abolitionism and worried that it would tear the North and South apart, the high-profile nature of the movement and the actions of freedom seekers raised new opposition to enslavement moving west. Most white northerners' opposition to the westward expansion of enslavement was based on self-interest. They argued that new western territories should be "free soil" so that free white people could have access to inexpensive farmland and opportunities to build wealth without having to compete with wealthy enslavers and enslaved people.<sup>375</sup> Keeping slavery out of the West became a major goal for a growing number of northerners and it put them into conflict with proslavery southerners who wanted enslavement to keep growing westward and to create new enslaving states.<sup>376</sup>

The conflict over the westward expansion of enslavement caused bitter political battles and violence in the years leading up to the Civil War.<sup>377</sup> In the 1840s, some northerners opposed allowing Texas, an independent enslaving nation that had broken off from Mexico, to join the United States. They worried that Texas would add an enormous amount of new territory for enslavement to grow.<sup>378</sup> When the United States declared war

A political crisis grew over whether enslavement should be allowed into these new territories or closed out forever. This crisis intensified when thousands of people rushed to California after the discovery of gold in the state and to set up a new state government with a constitution that outlawed enslavement.<sup>381</sup>

Northern and southern politicians in Congress tried to hold the country together by passing a set of laws called the Compromise of 1850. Together, these laws said that California could join the U.S. as a free state and that the residents of New Mexico and Utah territories could decide for themselves whether they wanted to allow enslavement.<sup>382</sup>

The Compromise of 1850 also gave other important concessions to both the opponents and defenders of enslavement. It ended the slave trade in Washington, D.C.<sup>383</sup> It also included a harsher fugitive slave law that gave enslavers greater federal aid in chasing down enslaved people who escaped to the free states, limited freedom seekers' ability to defend themselves in court, and harshly punished people who helped freedom seekers or people who refused to participate in enforcing the law.<sup>384</sup>

This fugitive slave law further divided white northerners and white southerners. Northerners hated the new law for forcing them to participate in enslavement.<sup>385</sup> Southerners viewed northern opposition to the law as a refusal to enforce the U.S. Constitution.<sup>386</sup> Eventually, this conflict spread all the way to California where proslavery southerners and antislavery northerners fought over what should happen to enslaved people who escaped their enslavement once they got to the free state.<sup>387</sup>

**By 1861, just under two percent of the entire budget of the United States went to pay for expenses related to enslavement. These expenses included dealing with the illegal transatlantic slave trade; colonization projects to remove formerly enslaved people from the United States and settle them in other parts of the world; enforcing fugitive slave laws; and renting enslaved people to build federal military sites in the South.**

on Mexico in 1846 over conflicts related to Texas, many northerners supported the idea of outlawing enslavement in any new lands that the United States might take away from Mexico.<sup>379</sup> In 1848, the U.S. did force Mexico to give up a massive territory that included today's states of California, New Mexico, Nevada, and Utah, as well as parts of present-day Arizona, Wyoming, and Colorado.<sup>380</sup>

### **Enslavers and the Enslaved in the California Gold Rush**

While people in northern and southern states fought over whether enslavement should be allowed to expand west, enslavement already had moved to California. Even though California was supposed to be a free state with an antislavery constitution,<sup>388</sup> enslavement existed in the state.<sup>389</sup> More importantly, California's early state government protected the institution of enslavement and greatly limited African Americans' civil rights.<sup>390</sup>

The enslavement of African Americans had already started in California before the state adopted an antislavery constitution in 1849. California had been part of Mexico

before the United States took it in the U.S.-Mexico War of 1846 to 1848. Mexico had already outlawed enslavement in 1829,<sup>391</sup> but American enslavers began trafficking en-

practices often required standing knee- or waist-deep in cold water for several hours each day in the broiling summer heat.<sup>401</sup>

**A gold rush source estimated that 1,500 enslaved African Americans lived in California in 1852.**

slaved African Americans into California before, during, and after the U.S.-Mexico War, especially once the gold rush began in 1848.<sup>392</sup>

The exact number of enslaved African descended people in California is difficult to estimate. Federal and state census records, which counted the number of people in California, show around 203 enslaved African descended people living in the state in 1850 and around 178 in 1852.<sup>393</sup> These are probably undercounts because early census records are very incomplete.<sup>394</sup> These incomplete records, though, do show support for the findings of historian Rudolph Lapp who estimated that at least 500 to 600 enslaved African Americans lived and worked in California during the gold rush.<sup>395</sup> But these numbers may be even higher because another gold rush source estimated that 1,500 enslaved African Americans lived in California in 1852.<sup>396</sup>

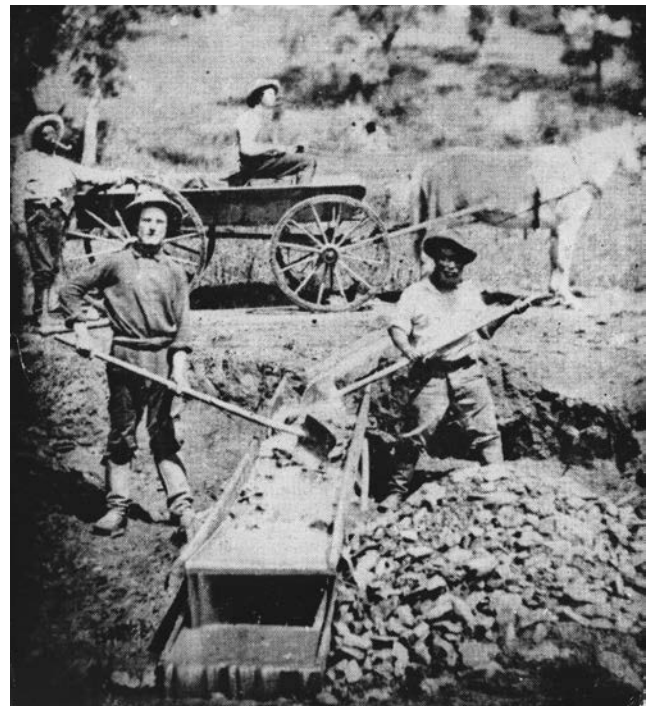
Each of these enslaved people suffered traumatic uprooting from their homes and families. Going to California meant a forced separation from family, friends, and community by a distance of thousands of miles.<sup>397</sup> Even though enslavers thought of the move to California as only temporary, most gold seekers spent at least two years in California—and usually many more—due to the distance and difficulty of traveling between the East and West Coast.<sup>398</sup> For example, an enslaved North Carolina man, known only as John, arrived in California with slaveholder Robert M. Dickson in 1852 and stayed at least three years, until Dickson suddenly died in 1855.<sup>399</sup> We do not know how long John remained in California or whether he ever returned to North Carolina. His journey to California may have resulted in permanent separation from his family.

Like John, more than 75 percent of the enslaved people trafficked to California were younger men or teenaged boys who ended up working as gold miners.<sup>400</sup> These enslaved miners faced backbreaking and often dangerous working conditions. Placer mining, the most common type of mining in the earliest days of the California gold rush, involved digging up soil from the beds and banks of rivers and creeks. Sometimes, miners dammed up these bodies of water to get at soil deep in the beds. These

Overwork, exposure to bad weather, unclean working and living environments, a lack of nutritious food, and the absence of medical care often resulted in long-term illnesses or death by disease.<sup>402</sup> For

instance, several enslaved men from western North Carolina died from cholera, a disease caused by contaminated food or water, along with their enslaver, in Tuolumne County in 1852.<sup>403</sup> Accidents and injury were also common, as seen in the life of an enslaved man from Kentucky, known only as Rheubin. He drowned in the American River while working in a mining area in 1851.<sup>404</sup>

COURTESY OF PHOTO12/UNIVERSAL IMAGES GROUP VIA GETTY IMAGES



Enslaved people working in California Gold Mines. (1852)

Not all enslaved people worked directly in mining. Women and girls, who made up less than one quarter of all recorded enslaved people in California,<sup>405</sup> often worked as servants, cooks, or laundry workers in private homes, hotels, restaurants, or boarding houses.<sup>406</sup> People with these skills were so scarce, and their work was so valuable, that enslavers often hired out both enslaved women and men as servants. Enslavers then pocketed all or most of the enslaved people's wages from their rented labor.<sup>407</sup>

### Violence Against the Enslaved and Resistance to Enslavement in California

Much like enslaved people in the South, those in California also faced brutal violence. In 1850, one slaveholder beat an enslaved man in the town square of San Jose for disobeying him. The police arrested both men, but ultimately determined that the slaveholder was not guilty of assault because his victim was legally his property.<sup>408</sup>

In another case from 1850, an elderly enslaved couple ran away near the town of Sonora. When the slaveholder caught them, he whipped the elderly man until his blood flowed so heavily that it filled his shoes. The couple later escaped with the help of a free African American neighbor.<sup>409</sup> One of the worst violent events also happened in 1850, this time in Los Angeles. A group of white southerners chased, shot at, and captured a handful of escaped enslaved people and then beat them until one almost died.<sup>410</sup>

The forced journey to California had different outcomes for the enslaved people who survived it. Many people probably worked in California for a few years before returning to enslavement in the South. Others, especially those who were allowed to keep a small portion of their wages from hiring out or digging gold, saved enough money to buy their freedom.<sup>411</sup> Finally, some enslaved people worked under formal or informal “indenture” agreements by which they promised to work for a certain number of years in California, or to earn a certain amount of money, in exchange for their freedom.<sup>412</sup> Enslaved people who bought their own freedom might then also earn enough money to free their family members.<sup>413</sup>

Large numbers of enslaved people also saw California as a place where they could take their own freedom or challenge their enslavement. The California gold mining country was large, rural, and full of diverse people, including antislavery African American and white Northerners. It was much easier to run away, hide, and find allies in California than in the Southern enslaving states.<sup>414</sup> But it is important to remember that all enslaved people who went west were forced to leave their family members and communities behind in the South. For this reason, escape was not a good option for many enslaved people because staying with enslavers was their only way to keep in touch with their families.

In this way, enslavers used their control over enslaved people's family members to force them to cooperate. For this reason, enslaved people may have been more likely to resist in other ways besides running away. For example, some refused to work or escaped temporarily until they were allowed to keep more of their earnings.<sup>415</sup> This might have been a safer path to freedom than running away if they could earn enough money to buy themselves and their family members out of enslavement.

**In another case from 1850, an elderly enslaved couple ran away near the town of Sonora. When the slaveholder caught them, he whipped the elderly man until his blood flowed so heavily that it filled his shoes. The couple later escaped with the help of a free Black neighbor.**

### California Legislature's Complicity

California's 1849 antislavery state constitution did little to stop the violence and exploitation that enslaved people suffered. The new constitution said that “neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.”<sup>416</sup>

The problem was that enslavement already existed in the state and was already being tolerated there. The constitution also said nothing about what should happen to those enslaved people who already lived in California or those who came after statehood. The California constitution could say that the state would not tolerate enslavement, but this statement did not mean much without laws making it a crime to keep someone enslaved, laws to free enslaved people, laws to punish enslavers, or laws to protect African Americans' freedom.<sup>417</sup>

Proslavery white southerners took advantage of this lack of specific laws against enslavement to keep enslavement going in California. During California's 1849 Constitutional Convention, a meeting to write the state's first constitution, proslavery politicians from the South quietly accepted the law banning enslavement.<sup>418</sup> But after statehood, a large number of southern proslavery men ran for political office in California so that they were overrepresented in the state government compared to their overall population in California. White southerners with proslavery views had a great deal of power in the state legislature, the state court system, and among California's representatives in the U.S. Congress.<sup>419</sup> During the 1850s, these men used their political power to make sure that California protected



enslavers. They passed and upheld laws that skirted around the antislavery constitution.

The California government's most proslavery action was passing and enforcing a state fugitive slave law in 1852.<sup>420</sup> Proslavery southerners were angry when they discovered that the federal fugitive slave law of 1850, a harsh new law to help slavecatchers chase down and re-enslave freedom seekers who escaped enslavement, did not apply to most cases in California. Enslavers could only use the federal law to chase down and re-enslave people who escaped across state lines, not those who ran away inside one state's borders.<sup>421</sup>

In 1852, the California state legislature dealt with this issue by changing the definition of who counted as a "fugitive slave." Instead of just covering people who escaped across state lines, California's new state law said that a fugitive slave was any enslaved person who arrived before California officially became a U.S. state in September 1850 but who refused to return to the enslaving states with their enslavers. These people could be arrested, placed under the control of their enslavers, and forced to return to the South.<sup>422</sup>

The legal reasoning behind this law was that California's antislavery constitution did not become official until the moment of statehood. Before then, California was a federal territory controlled by the U.S. government. Proslavery southerners believed that the U.S. Constitution gave every white citizen the right to move into the federal territories and to take their property with them, including human beings who were considered property. For this reason, the law's supporters

The California legislature's decision to pass this fugitive slave law made California a much more proslavery state than most other free states. In the northeastern U.S., many free states protested the federal fugitive slave law of 1850 and tried to give African Americans more legal rights to defend their freedom against slavecatchers. California did the opposite.<sup>424</sup>

The California fugitive slave law of 1852 allowed enslavers to use violence to capture enslaved people. The law

**Instead of just covering people who escaped across state lines, California's law said that a fugitive slave was any enslaved person who arrived before California officially became a U.S. state in September 1850 but who refused to return to the enslaving states with their enslavers. These people could be arrested, placed under the control of their enslavers, and forced to return to the South.**

also required state officials to help enslavers capture and arrest enslaved people. Those who refused to help could lose their jobs and/or have to pay expensive fines. Finally, the California fugitive slave law, much like the federal fugitive slave law, said that people accused of being fugitive slaves could not testify in court to defend their rights.<sup>425</sup> Since California had already outlawed non-white people from testifying in any court case involving whites, free African American Californians, who were usually involved in helping people escape from enslavement, could not be witnesses in any of these cases either.<sup>426</sup>

California's fugitive slave law was supposed to be a temporary one-year policy, but it ended up lasting much longer. In 1853, California legislators extended the fugitive slave law for another year.<sup>427</sup> They did the same thing again in 1854.<sup>428</sup> This meant that for three years, from 1852 to 1855, anyone accused of being a runaway from enslavement could be chased down, dragged before a court, and sent back to lifelong enslavement in the South, even if they had been living in the free state of California for five years or more.<sup>429</sup>

**Enslaved people who went west were forced to leave their family members and communities behind in the South. For this reason, escape was not a good option for many enslaved people because staying with enslavers was their only way to keep in touch with their families.**

argued that the state of California had no choice except to help enslavers capture any enslaved person who they had brought in before official statehood in late 1850.<sup>423</sup>

**The California Court System's Complicity**  
California's courts, including the California Supreme Court, also participated in the enslavement of African Americans. Free African American activists, with the

help of white lawyers, challenged the legality of the fugitive slave law because it went against the antislavery state constitution. They took a test case called *In re Perkins* all the way to the California Supreme Court in 1852.<sup>430</sup> The state's Supreme Court justices finally decided that three African American men—Carter Perkins, Robert Perkins, and Sandy Jones<sup>431</sup>—should be forced to go back into enslavement in Mississippi because they had arrived with their enslaver before official statehood.<sup>432</sup>

The court said that the antislavery law in the California Constitution was only a “declaration of a principle.” The constitution said the state would not tolerate enslavement, but California had no laws in place to enforce it by actually setting people free.<sup>433</sup> The justices also agreed with the state legislature that California could not give freedom to enslaved people who arrived before official statehood. The court accepted the extreme proslavery legal view that the U.S. Constitution gave enslavers the right to bring enslaved people into the federal territories without any limits.<sup>434</sup> This decision came before the similar one in the much more famous case of *Dred Scott v. Sandford* five years later in 1857. In that historic decision, the U.S. Supreme Court ruled that the federal government could not outlaw enslavement in any of the federal territories.<sup>435</sup>

Altogether, California courts were involved in at least 10 cases, connected to the freedom of 13 people, under the state fugitive slave law between 1852 and 1855. In five of those 10 cases, the courts returned seven freedom seekers to enslavement. These numbers may seem small, but this list only includes cases that were well-known enough to make it into the newspapers, or for which court records happen to survive.<sup>436</sup>

The small numbers also do not accurately show the terror that all African Americans, free or enslaved, would have suffered under this law. When combined with the outlawing of African American court testimony against whites, the California fugitive slave law put every African American person at risk of being accused of running away, arrested, and enslaved without being able to defend themselves.<sup>437</sup>

Finally, the California fugitive slave law was important for symbolic and political reasons. In supporting the law, California's legislature and courts sent an important message: they were friendly to the southern enslaving states, they believed enslaved people should have no legal rights, and they thought that the U.S. Constitution should protect enslavers and enslavement.<sup>438</sup>

The California legislature finally let the state fugitive slave law expire in 1855.<sup>439</sup> Still, cases involving freedom seekers from enslavement continued. At least six additional cases, involving the freedom of 19 people, came before the California courts between 1855 and the official end of enslavement in 1865.<sup>440</sup> All of these cases—including the famous 1856 freedom case of Bridget “Biddy” Mason in Los Angeles County—eventually led to enslaved people's freedom.<sup>441</sup>

But in one example, the case of Archy Lee from 1857 to 1858, the proslavery California Supreme Court made every effort to return him to enslavement. Lee's enslaver, Charles Stovall, forced him to go with him to California years after the state fugitive slave law had expired. But California's supreme court justices decided that since Stovall was a young man who suffered from constant illness, and he did not know about California's laws, he should not be punished by losing his right to own Archy Lee. It took several more lawsuits by free African American Californians, and a new decision from a federal legal official, before Lee finally won permanent freedom.<sup>442</sup>

**California's legislature and courts sent an important message: they were friendly to the southern enslaving states, they believed enslaved people should have no legal rights, and they thought that the U.S. Constitution should protect enslavers and enslavement.**

### California's Political Leadership and Anti-Black Oppression

During the 1850s, California's political leaders, including governors, state assemblymen, and state senators, supported other anti-Black laws. California's 1849 Constitutional Convention restricted the right to vote to white male citizens<sup>443</sup> and also debated (but did not pass) an exclusion law to outlaw all future African American migration to the state.<sup>444</sup>

Peter Burnett, California's first Governor, opposed both enslavement and the presence of African Americans, so he was angry that the new state Constitution did not have an African American exclusion law.<sup>445</sup> Before coming to California, Burnett had served in Oregon's provisional government and had personally helped pass a Black exclusion law, the “Lash Law,” which said that African Americans who arrived in Oregon would be whipped every six months until they left.<sup>446</sup>

Burnett encouraged the California legislature to pass an African American exclusion law immediately.<sup>447</sup> He said that failing to exclude African American residents would lead to enslavers bringing more enslaved people into the state.<sup>448</sup> When the California Legislature failed to pass an African American exclusion law in 1850, Burnett gave another speech in 1851 demanding a law to ban African American residents.<sup>449</sup> This time he claimed that any free African American residents would be so poor, and so upset about not having any civil rights under California law, that they would start a race war against whites.<sup>450</sup> Overall, California tried to pass an African American exclusion law at least four times during the 1850s, but the state Legislature was either too politically divided to agree on a law or ran out of time before the legislative session ended.<sup>451</sup>

California legislators focused instead on limiting the rights of African Americans who were already in the state. In addition to outlawing African American court testimony in cases involving whites, the California Legislature also made interracial marriage between African American and white people illegal,<sup>452</sup> excluded African American people from getting homesteads (free or cheap farms) on

state lands,<sup>453</sup> refused to offer state funding for African American children to attend public schools,<sup>454</sup> and would not accept petitions from African American activists who wanted to change these unjust laws.<sup>455</sup>

**Overall, California tried to pass a Black exclusion law at least four times during the 1850s.**

After free African American activists successfully rescued Archy Lee from enslavement in 1858, angry proslavery legislators tried to make these anti-Black laws even worse. They tried to pass another state fugitive slave law and to pass yet another African American exclusion law. Although both of these laws failed to pass before the end of the legislative session, the vicious anti-Black tone of state politics prompted many African American Californians to leave the state in search of greater freedom and equality.<sup>456</sup> Starting in 1858, up to 800 African American men, women, and children migrated north to the British colonies of Vancouver Island and British Columbia, in what is now Canada, where many became British subjects.<sup>457</sup>

## VIII. The U.S. Civil War and the End of Enslavement

### Political Struggles Leading up to the U.S. Civil War

Between 1850 and the start of the Civil War in 1861, the political fight over enslavement's westward expansion and African Americans' legal rights became more intense and more violent. Proslavery politicians in Congress pushed through the Kansas-Nebraska Act of 1854, a law that overturned the 1820 Missouri Compromise that had outlawed enslavement in most of the Louisiana Purchase lands.<sup>458</sup> This meant that white settlers in the new western territories of Kansas and Nebraska territories could allow enslavement if they wanted to do so. A bloody civil war broke out in Kansas between proslavery and antislavery settlers who had rushed there to claim the new territory for their side.<sup>459</sup> The Kansas-Nebraska Act and "Bleeding Kansas," as this violence came to be called, shocked many northerners who opposed enslavement moving into the West. They formed a new political party, the Republican Party, which was based mostly in the North and whose main goal was stopping the westward expansion of enslavement.<sup>460</sup>

As northerners became more antislavery, proslavery southerners became even louder in their defense of

enslavement.<sup>461</sup> They falsely claimed that enslavement was a gentle and humane institution, and that enslaved people got just as many benefits from the institution as white people because they received life-long care and support in exchange for their work.<sup>462</sup> Proslavery people also used scientific racism, the false theory that all white people were naturally smarter and more "civilized" than African descended people, to argue that enslavement was good for people of African descent because it "uplifted" them.<sup>463</sup>

In the late 1850s, the U.S. Supreme Court supported these false theories that African Americans were inferior to white Americans and helped open the western U.S. to enslavement. In the 1857 case of *Dred Scott v. Sandford*, the court decided that African Americans were not citizens of the United States and did not have any of the legal rights that white Americans had.<sup>464</sup> Chief Justice Roger Taney, from the enslaving state of Maryland, explained that white people had always treated African American people as slaves and that African Americans were "so far inferior, that they had no rights which the white man was bound to respect."<sup>465</sup> In addition to denying



African Americans' claims to legal rights, the court also said that the federal government had no power to close enslavement out of the western territories.<sup>466</sup> The U.S. Constitution allowed slaveholding southerners to take their property, including property in human beings, into the western territories.<sup>467</sup>

Free African Americans resisted their legal exclusion from U.S. citizenship both before and after the *Dred Scott* decision by claiming birthright citizenship. This was the idea that birth on U.S. soil automatically made them citizens of the United States.<sup>468</sup> Across the first half of the 1800s, African Americans used local courthouses and everyday interactions with state and municipal governments to establish that their U.S. birth entitled them to the title and rights of citizenship.<sup>469</sup> The groundwork laid by free African Americans was eventually the foundation of the Civil Rights Act of 1866, and the Fourteenth Amendment to the U.S. Constitution, which made everyone born in the United States a citizen of the United States.<sup>470</sup>

The conflict over enslavement's westward expansion and African Americans' rights broke out into a full civil war in 1861. Abraham Lincoln, a Republican, won the presidential election of 1860 by promising to keep enslavement from moving West into any new territories.<sup>471</sup> Proslavery southerners claimed Lincoln's election was proof that all northerners wanted to end enslavement, give citizenship rights to African Americans, and cause a race war in the South.<sup>472</sup>

Less than two months after Lincoln's election, South Carolina, an enslaving state, voted to leave the United States.<sup>473</sup> Over the next two months, an additional six enslaving states—Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas—also left the United States. They formed the Confederate States of America, also known as the Confederacy. Once war broke out in 1861, another four enslaving states—Virginia, Arkansas, North Carolina, and Tennessee—joined the Confederacy.<sup>474</sup> The deadliest war in U.S. history had begun.

### The Civil War, and the Emancipation Proclamation

The Confederate States of America, also known as the Confederacy, fought to create a new nation built on the enslavement of people of African descent. The Confederate Constitution was based strongly on the U.S. Constitution, except that it outlawed the national government from ending enslavement<sup>475</sup> and it said that white people living in any new Confederate territories had the right to own enslaved people.<sup>476</sup>

Alexander Stephens, the Confederate Vice-President, declared that, unlike the United States, the Confederacy was not based on the notion that all men were created equal. Instead, the “cornerstone” of the Confederacy, the foundation on which it was built, was “the great truth that the negro is not equal to the white man; that slavery subordination to the superior race is his natural and normal condition.”<sup>477</sup>

For many white southerners in the Confederacy, keeping enslavement was even more important than winning independence from the United States. When the Confederacy lacked soldiers to fight in the later years of the Civil War, Confederate military leaders, including General Robert E. Lee, supported recruiting enslaved men as soldiers. The idea was that enslaved men would fight for the Confederacy in exchange for their freedom.<sup>478</sup>

In the end, recruiting enslaved men as soldiers and giving freedom to those who fought for the Confederacy was very unpopular because proslavery whites feared that it would weaken enslavement and go against the enslaving states' reason for seceding.<sup>479</sup> For example, Howell Cobb, a Confederate general from Georgia, said that giving guns to the enslaved was a “suicidal policy” and “[t]he day you make soldiers of them is the beginning of the end of the revolution.”<sup>480</sup>

Since many white southerners agreed with Cobb, the Confederacy did not accept the idea of freeing and arming enslaved men as soldiers until March 1865, the last month of the Civil War. The Confederacy organized a handful of enslaved men as soldiers in these very last days of the war, but none of them fought in battle.<sup>481</sup>

Unlike the Confederacy, the Union made freeing the enslaved and recruiting enslaved men into the military a major part of its war strategy. Even though Abraham Lincoln and many Republican politicians were not interested in freeing the enslaved at first, the actions of enslaved people pushed the United States toward ending enslavement.<sup>482</sup>

Enslaved people began escaping to U.S. military sites even before the war began.<sup>483</sup> When the United States Army began moving into the Confederacy, large numbers of refugees from enslavement—as many as 500,000 people or 12.5 percent of the entire enslaved population—sought freedom in U.S. Army camps.<sup>484</sup> These freedom seekers worked as wagon drivers, laundry workers, cooks, manual laborers, and nurses for the U.S. army.<sup>485</sup> However, not all African Americans served in the Army voluntarily, as a small number were kidnapped and forced to enlist against their will.<sup>486</sup>

Congress understood that these freedom seekers would play a key role in winning the war against the Confederacy. Every formerly enslaved person working for the U.S. took away resources from the South and helped the Union.<sup>487</sup> In 1861 and 1862, Congress passed laws called “confiscation acts,” which allowed the U.S. military to give shelter and work to enslaved people who were being forced to work for the Confederacy, and, later to any enslaved person whose enslaver supported the Confederacy.<sup>488</sup>

Even as the United States was dismantling enslavement, the Union could not immediately or completely abolish the institution. With the secession of 11 Southern states, the number of enslaving congressmen decreased ac-

**Even as the United States was dismantling enslavement, the Union could not immediately or completely abolish the institution. More than 20 percent of the members of Congress during the Civil War remained either current or former enslavers, mostly from the border states that had not seceded.**

cordingly, which did give opponents of enslavement a political advantage.<sup>489</sup> However, more than 20 percent of the members of Congress during the Civil War remained either current or former slaveholders, mostly from the border states that had not seceded.<sup>490</sup>

Abraham Lincoln was also slow to use his presidential power to free enslaved people. In September 1862, Lincoln wrote a preliminary version of the Emancipation Proclamation, which freed all the enslaved people in any area still in rebellion against the United States on the first day of the new year in 1863.<sup>491</sup> Lincoln’s preliminary proclamation also recommended transporting newly-freed African Americans out of the United States and resettling them elsewhere<sup>492</sup> (a scheme that Lincoln considered seriously for years until it was clear that most African Americans refused to leave the land of their birth).<sup>493</sup> Then, on January 1, 1863, Lincoln signed his final Emancipation Proclamation, setting enslaved people free everywhere in the Confederacy, except the parts already controlled by the U.S.

Army,<sup>494</sup> and making no reference to removing African Americans overseas.<sup>495</sup> The Emancipation Proclamation also left out the enslaving Border States that had not joined the Confederacy—Maryland, Kentucky, Delaware, and Missouri—to keep them loyal to the Union.<sup>496</sup>

### Enslaved People Tear Down Enslavement and Fight for their Freedom

Enslaved people set the Emancipation Proclamation in motion by seeking freedom by the thousands, and they also fought for their freedom on the battlefield. Congress stopped excluding African American men from the U.S. Army in 1862<sup>497</sup> and the Emancipation Proclamation opened the way for African American men to join the army and navy.<sup>498</sup> Free African Americans in Union states quickly organized military units, including the 54<sup>th</sup> Massachusetts Volunteer Infantry.<sup>499</sup>

But most African American Civil War soldiers were formerly enslaved men recruited in the South as part of the United States Colored Troops (USCT). Altogether, 178,000 African

American men served in 175 USCT regiments.<sup>500</sup> Another 29,000 Black men served in the U.S. Navy.<sup>501</sup> By the end of the Civil War, Black servicemen made up roughly 10 percent of the entire Union military.<sup>502</sup> They fought in every major Union military campaign between 1864 and 1865,<sup>503</sup> and participated in 39 major battles and 410 smaller armed conflicts.<sup>504</sup> Around 40,000 of these men (around 20 percent) died during the Civil War.<sup>505</sup>

COURTESY OF CORBIS VIA GETTY IMAGES



The 107th U.S. Colored Infantry stand guard during the United States Civil War. (c. 1860-1865)

The federal government and the U.S. military did not treat African American soldiers equally. Black soldiers faced doing hard labor, being fed less nutritious food than white soldiers, and having less access to medical care.<sup>506</sup> The federal government also paid African American soldiers less than white soldiers, and African American soldiers were closed out of opportunities to lead their units as high-ranking officers because these positions were given to white men only.<sup>507</sup> African American soldiers' resistance to poor treatment helped fix some of these inequalities.<sup>508</sup> After African American soldiers protested strongly against lower pay, Congress finally began paying African American and white soldiers equally in 1864.<sup>509</sup> By the end of the war, 80 African American men also won their promotion to high-ranking officer positions.<sup>510</sup> For a further discussion the U.S. military's discriminatory treatment of African Americans, see Chapter 10, *Stolen Labor and Hindered Opportunity*.

These African American servicemen fought bravely to win their freedom and to claim equal rights with white Americans. Sattira A. Douglas, a Black woman whose husband, H. Ford Douglas, fought in the war, explained that Black soldiers wanted "to strike the blow that will at once relieve them of northern prejudice and southern slavery."<sup>511</sup> They fought courageously because they had "everything to gain in this conflict: liberty, honor, social and political position," and losing the war would result in "slavery, [and] prejudice of caste."<sup>512</sup>

For instance, the 54th Massachusetts Volunteer Infantry, the most famous northern Black unit, and the one in which Frederick Douglass's two sons served, led a heroic attack on Fort Wagner, South Carolina in July 1863.<sup>513</sup> More than 40 percent of the men died or were wounded in the attack.<sup>514</sup> One of the survivors of Fort Wagner, Sergeant William Harvey Carney, eventually was awarded the Medal of Honor, the highest military honor in the United States, for saving the 54th Massachusetts flag from the enemy.<sup>515</sup> Carney was among 26 African American Civil War soldiers who earned this prestigious medal for bravery above and beyond the call of duty.<sup>516</sup>

African American soldiers also faced more violence on the battlefield than white soldiers. The Confederacy threatened to kill or enslave African American soldiers who Confederates captured as prisoners of war.<sup>517</sup> Abraham Lincoln tried to protect African American

soldiers by warning the Confederacy that the Union would kill or force into hard labor one Confederate prisoner of war for every African American soldier that Confederates killed or enslaved.<sup>518</sup>

Still, some Confederates targeted African American servicemen with violence. In 1864, Confederates attacked a much smaller Union force of mostly African American

**By the end of the Civil War, Black servicemen made up roughly 10 percent of the entire Union military. The federal government and the U.S. military did not treat Black soldiers equally. Black soldiers faced doing hard labor, being fed less nutritious food than white soldiers, and having less access to medical care. The federal government also paid Black soldiers less than white soldiers, and Black soldiers were closed out of opportunities to lead their units as high-ranking officers because these positions were given to white men only.**

soldiers at Fort Pillow in Tennessee. The Confederates entered the fort and killed 300 men, 200 of whom were African American.<sup>519</sup> Witnesses said that Confederates killed these African American soldiers instead of capturing them as prisoners of war.<sup>520</sup> After this massacre, it became popular for African American soldiers to shout "Remember Fort Pillow!" as they went into battle to fight for their lives and their freedom.<sup>521</sup>

### The End of the Civil War and the Thirteenth Amendment

The United States won the Civil War against the Confederacy in 1865, effectively ending enslavement in all of the ex-Confederate states. Enslaved people in Texas, one of the very last places reached by the United States Army, did not hear that they had been legally freed until June 19, 1865.<sup>522</sup> This was two and a half years after the Emancipation Proclamation. Formerly enslaved African American Texans began celebrating June 19<sup>th</sup> as "Juneteenth," a day to remember their hard-fought battle for freedom.<sup>523</sup>

Six months later, on December 6, 1865, the required number of states finally approved the Thirteenth Amendment to the U.S. Constitution outlawing enslavement and making emancipation permanent.<sup>524</sup> The Amendment said that "neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted,



shall exist within the United States, or any place subject to their jurisdiction.”<sup>525</sup> Section 2 of the Thirteenth Amendment also empowered Congress to pass “appropriate legislation” to enforce the elimination of

enslavement,<sup>526</sup> which the U.S. Supreme Court later interpreted as the power to outlaw all “badges and incidents of slavery.”<sup>527</sup>

## IX. Reconstruction and the Lost Cause

### Reconstruction Begins

After the end of the Civil War and the outlawing of enslavement, the United States went through a process known as Reconstruction, a period of rebuilding and reuniting the country.<sup>528</sup> Abraham Lincoln had begun this process during the Civil War.<sup>529</sup> But Lincoln’s assassination in April 1865 put Reconstruction in the hands of his vice-president, Andrew Johnson, and Republicans in Congress.<sup>530</sup>

President Johnson was a former Democrat from Tennessee who remained loyal to the Union. He disapproved of the Confederacy and wanted to punish wealthy enslavers who participated in it.<sup>531</sup> But he also wanted to keep white people in charge of the South and opposed giving equal political rights to African Americans.<sup>532</sup> As Johnson wrote in an 1868 letter to the governor of Missouri: “This is a country for white men, and by God, as long as I am President; it shall be a government for white men.”<sup>533</sup>

Johnson fought with Republicans in Congress over the direction of Reconstruction and African Americans’ civil rights, which eventually led to Johnson’s impeachment.<sup>534</sup> Congressional Republicans took over the process of Reconstruction and passed new laws aimed at giving formerly enslaved people basic legal rights.<sup>535</sup>

Congressional Republicans had several overlapping goals: re-growing the southern cotton economy, rebuilding

the ex-Confederate states’ governments before allowing them to come back fully into the United States, and making sure that formerly enslaved people could no longer be held in enslavement.<sup>536</sup> Some of the most progressive Republicans (known as Radical Republicans) wanted to completely change social, economic, and political life in the South to support African American equality.<sup>537</sup> But moderate and conservative Republicans mostly focused on laws that would give African Americans basic legal and economic rights such as making contracts to work and getting paid for their work.<sup>538</sup>

The formerly enslaved and former enslavers in the South had their own goals. Formerly enslaved people wanted more than just basic legal rights. They wanted to be independent, out of the control of their former enslavers, and to own small farms where they could work for themselves.<sup>539</sup> They wanted to educate themselves and their children.<sup>540</sup> They wanted the ability to move around in search of family members sold away during enslavement.<sup>541</sup> Finally, they wanted political rights such as the right to vote and hold office.<sup>542</sup>

Former enslavers refused to acknowledge African Americans’ new freedom. In every ex-Confederate state, white southerners passed laws called “Black Codes.”<sup>543</sup> Black Codes included vagrancy laws that allowed police to arrest any Black person without an employer and force them to work. Black Codes in some states also forced Black parents to give control over their children to their former enslavers. State courts generally punished African Americans more harshly than white Americans charged with the same crimes.<sup>544</sup>

Republicans in Congress would have to force former enslavers in the South to treat the formerly enslaved fairly, equally, and with basic human dignity. Republicans briefly considered passing laws that would take away land from wealthy Confederates and give it to formerly enslaved people so that they could support themselves as independent farmers.<sup>545</sup>

Immediately before the end of the Civil War, Congress created the Bureau of Refugees, Freedmen, and Abandoned Lands to provide for the welfare of formerly enslaved African Americans, including through

**In every ex-confederate state, white southerners passed laws called the Black Codes. Examples include:**

- Vagrancy laws that allowed police to arrest any Black person without an employer and force them to work
- Laws that forced Black parents to give control over their children to their former enslavers.
- Laws that did not allow African Americans to change employers without permission

“issues of provisions, clothing, and fuel, as [necessary] for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children,” according to the statute.<sup>546</sup> Commonly known as the Freedmen’s Bureau, the agency had the authority to supervise labor relations in the South, with the mandate to provide education, medical care, and legal protections for formerly enslaved African Americans, along with the authority to rent out and eventually sell allotments of abandoned or confiscated land to free African Americans.<sup>547</sup>

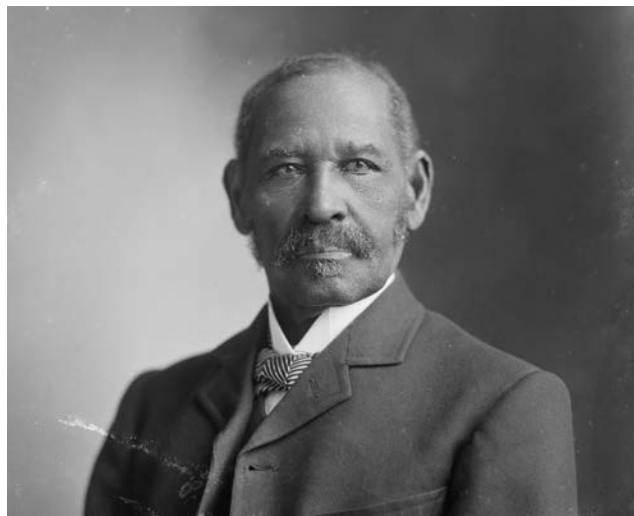
The original goal of the Freedmen’s Bureau Act was the more radical notion of allowing African Americans the means to become self-sufficient.<sup>548</sup> In the closing days of the Civil War, Union General William Tecumseh Sherman issued Special Field Order No. 15, setting aside 400,000 acres of confiscated land for those who had been freed, and two months later, the Freedman Bureau’s Act formalized the field order, “providing that each negro might have forty acres at a low price on long credit.”<sup>549</sup> Many free African Americans and northern Republicans believed that land reform in the South—granting formerly enslaved African Americans access to their own land—was the true way that formerly enslaved people would be free from their enslavers.<sup>550</sup> The resulting independent African American farmers would provide a power base for a new social and political order in the postwar South.<sup>551</sup>

This new vision of social relations in the South was opposed by white southerners as well as northerners who opposed enslavement but did not believe in full equality for African Americans.<sup>552</sup> Most white Americans, even in the North, thought these policies were too “radical” because they took away ex-Confederates’ individual property rights and set a dangerous precedent that wealth could be redistributed to poorer members of society.<sup>553</sup> Moreover, a large number of African American landowners would threaten plantations and disrupt the southern economy and social system.<sup>554</sup> White capitalists in the North and South believed that African American freedom should mean African American workers continuing to work on a plantation, although they would now be paid.<sup>555</sup> They did not believe that African Americans should be able to support themselves independently through subsistence farming, which would have led to less cotton being grown and posed a threat to the interests of cotton merchants and other capitalists in the South, elsewhere in the United States, and in Europe.<sup>556</sup> In less than a full harvest season, the land that Sherman had given to freed persons was returned to the prior owners.<sup>557</sup>

Although the Freedmen’s Bureau tried to assert and protect the rights of the formerly enslaved, it also

perpetuated racist stereotypes, paternalistic attitudes, and continued to limit African Americans’ economic and social power. Bureau agents often viewed formerly

COURTESY OF LIBRARY OF CONGRESS



“Gibbs, Judge M.W.” Judge Mifflin Wistar Gibbs (1823-1915) was a prominent civil rights and entrepreneur in San Francisco who fought against California’s anti-black laws. (c. 1901-1903)

enslaved African Americans as children, unprepared for freedom, and needing to be taught the importance of work and wages.<sup>558</sup> The Freedmen’s Bureau abandoned the possibility of land reform in the South, and focused mostly on labor relations between African American and white southerners instead.<sup>559</sup>

Republicans’ other major Reconstruction policies focused on making sure that formerly enslaved African American Southerners had access to basic civil rights, such as rights to make contracts, own property, keep their families together, have physical safety, and be treated fairly by the courts and the criminal justice system.<sup>560</sup> In 1866, Congress passed a civil rights act that made anyone born in the United States a citizen, without regard to their race, color, or previous enslavement.<sup>561</sup> Newly freed African American citizens were supposed to have the same equality under the law “as is enjoyed by white citizens.”<sup>562</sup>

Republicans feared that a federal law like the Civil Rights Act of 1866 could be overturned easily if another political party came into power. They pushed for a constitutional amendment that would make African American citizenship and civil rights permanent.<sup>563</sup>

The Fourteenth Amendment, approved by Congress in 1866 and ratified by the required number of states in 1868, said that any person born in the United States was a citizen (birthright citizenship); that state governments could not take away the life, liberty, or property of any

person (citizen or non-citizen) without due process of law (following standard legal procedures); and that the states had to treat every person equally under the law.<sup>564</sup> African American activists had finally won their decades-long battle for birthright citizenship, and all people born in the United States now benefitted from their work.<sup>565</sup>

Congress soon decided that formerly enslaved people's legal and economic rights could not be protected unless African Americans had political rights, specifically rights to vote and hold office.<sup>566</sup> The Fifteenth Amendment, approved by Congress in 1869 and ratified by the required number of states in 1870, made it illegal for states to discriminate against voters based on "race, color, or previous condition of servitude."<sup>567</sup> The intention was to stop the states from denying voting rights to African American men.<sup>568</sup> As with the Thirteenth and Fourteenth Amendments, the Fifteenth Amendment gave Congress the power to pass future legislation to ensure that the states followed the law.<sup>569</sup>

ratifying the Fifteenth Amendment in 1870.<sup>577</sup> Enough other states had ratified the amendments that they became part of the U.S. Constitution without California's approval.<sup>578</sup> Still, California would continue its resistance to Reconstruction civil rights legislation by refusing to ratify the Fourteenth Amendment until 1959<sup>579</sup> and the Fifteenth Amendment until 1962.<sup>580</sup>

California also led the way in establishing the legal defense for segregation during Reconstruction. In 1874, the Supreme Court of California made a destructive decision

**In the case of *Ward v. Flood*, California's Supreme Court justices decided that segregation in the state's public schools did not violate the Fourteenth Amendment as long as Black children and white children had equal access to similar schools and educational opportunities. Twenty-two years later, the U.S. Supreme Court made a similar "separate but equal" decision in the case of *Plessy v. Ferguson*. This decision supported the segregation of public facilities in the United States for almost 60 years.**

### California Rejects Reconstruction Civil Rights Legislation

The Legislature and Governor of California strongly opposed Congress's Reconstruction civil rights laws and tried to stop them.<sup>570</sup> During the Civil War, Black Californians had fought for and won new rights, such as the right to testify in court cases involving whites.<sup>571</sup> This was because white Republicans controlled the legislature and governorship during the early 1860s and took power away from the proslavery Democrats who used to control the state.<sup>572</sup> But many white Californians opposed Congressional civil rights laws to protect formerly enslaved people and worried that these laws would apply to other non-white people in the state.<sup>573</sup>

Democrats came back into power in California in 1867 by promising white voters that they would fight against Reconstruction and any new law that would make African Americans, Native Americans, or Chinese Americans equal to whites or give them voting rights.<sup>574</sup>

California Democrats who controlled the state legislature kept this promise when it came time to ratify the Fourteenth and Fifteenth Amendments.<sup>575</sup> California's legislature ignored the Fourteenth Amendment and never considered it.<sup>576</sup> The legislature voted to reject

that the rest of the United States eventually followed. In the case of *Ward v. Flood*, California's Supreme Court justices decided that segregation in the state's public schools did not violate the Fourteenth Amendment as long as African American children and white children had equal access to similar schools and educational opportunities.<sup>581</sup> Twenty-two years later, the U.S. Supreme Court made a similar "separate but equal" decision in the case of *Plessy v. Ferguson*. This decision supported the segregation of public facilities in the United States for almost 60 years.<sup>582</sup>

### The Destruction of Reconstruction

African Americans fought for and took advantage of many new legal rights during Reconstruction, but this time period of growing legal equality was short. White supremacist terrorist groups, first the Ku Klux Klan and then later militias such as the White League of Louisiana and the Red Shirts of South Carolina, eventually overthrew the Reconstruction governments that African American and white Republicans had established together in the South.<sup>583</sup> (For a detailed discussion of African Americans' political accomplishments during Reconstruction and white supremacist terrorism in the U.S. South, see Chapters 3, Racial Terror, and 4, Political Disenfranchisement, of this report).



White southern Democrats, who wanted to keep African Americans working on plantations and out of politics, retook control of the southern states.<sup>584</sup> The long and expensive process of Reconstruction lost popularity with white northerners, and many of them wanted to give up on the project of trying to change the racial, legal, and economic relationships of the South.<sup>585</sup>

During the U.S. presidential election of 1876, white northern Republicans abandoned Reconstruction in the South in exchange for keeping control of the presidency of the United States.<sup>586</sup> After the election, Ohio Republican Rutherford B. Hayes and New York Democrat Samuel Tilden both claimed to be the winner.<sup>587</sup> It was well-known that white southerners had used violence, threats, and fraud to keep African Americans from voting for the Republican Hayes.<sup>588</sup> The national leadership of the Republican and Democratic parties made a secret deal: in exchange for Democrats acknowledging Hayes's victory in the presidential election, Republicans would reduce federal support for Reconstruction.<sup>589</sup> Soon after Hayes became president in 1877, he pulled U.S. troops out of key areas in the South where they had been protecting African Americans' political rights and Republican officeholders.<sup>590</sup> Hayes' action effectively ended direct federal protection of African Americans' political rights in the South.<sup>591</sup>

The U.S. Supreme Court played its own important role in defeating Reconstruction.<sup>592</sup> In the 1870s, the court made several decisions that greatly reduced the power of the Fourteenth Amendment and federal laws to protect African American equality.<sup>593</sup>

**At the end of the 1800s and the start of the 1900s, white southerners began building thousands of monuments and statues all over the South to celebrate famous Confederates, and to name important buildings after Confederate figures. White Californians also built Confederate monuments across the state.**

The last of these decisions happened in the 1883 *Civil Rights Cases*, a group of several cases that African Americans had brought under the federal Civil Rights Act of 1875.<sup>594</sup> That act had made it illegal for theaters, hotels, and public transportation companies such as railroads to exclude African Americans.<sup>595</sup>

The Supreme Court decided in 1883 that the Civil Rights Act of 1875 was unconstitutional because the Fourteenth Amendment, on which it was based, only gave Congress

the power to stop state governments from discriminating against African Americans. Congress could not outlaw individual people and private business owners from discriminating against African Americans; only the state governments themselves could do that.<sup>596</sup>

The Supreme Court decision in the *Civil Rights Cases* legalized racial discrimination and segregation in most public places. It set the stage for the “separate but equal” decision in *Plessy v. Ferguson* (1896) and practices such as housing discrimination and education segregation.<sup>597</sup>

### The Rise of the Lost Cause Myth

After Reconstruction ended, white southerners created the myth of the Confederate “Lost Cause” in order to downplay the horrors of enslavement and terrorize African Americans.<sup>598</sup> Southerners who opposed African American civil rights falsely argued that the Civil War had little to do with enslavement. The Lost Cause myth claims that the Confederacy had fought a heroic war to save the southern way of life from being destroyed by the North.<sup>599</sup> This untruthful history also claims that the Confederacy lost the Civil War only because the more populated, industrialized North overpowered white southerners, not because enslavement or the Confederate cause was wrong.<sup>600</sup>

The Lost Cause is not just a story that white southerners tell. It is a weapon of terror against African Americans and a rejection of the southern defeat in the Civil War and African American civil rights. At the end of the 1800s and the start of the 1900s, white southerners began building thousands of monuments and statues all over the South to celebrate famous Confederates, and to name important buildings after Confederate figures.<sup>601</sup>

In the 1910s, the Ku Klux Klan, which the federal government had broken up during Reconstruction, re-emerged and began terrorizing and murdering African Americans.

The combination of violence against African Americans and the constant sight of monuments celebrating the enslaving Confederacy were terrorist tactics meant to silence African Americans and keep them from challenging white supremacy.<sup>602</sup>

Lost Cause symbols became especially important to white southerners who tried to stop the Civil Rights Movement in the 1950s and 1960s. White southerners who opposed African American civil and human rights

beat and murdered African American (and some white) civil rights activists. They also began regularly flying versions of the battle flag of the Army of Northern Virginia (the Confederate “Stars and Bars,” popularly known as the “Confederate Flag”) to threaten civil rights activists and to show that they were determined not to give equality to African Americans.<sup>603</sup>

Even though defenders of the Lost Cause have argued that Confederate monuments and flags stand for “heritage, not hate,” and they claim that removing them erases history, this argument ignores the true history of these objects. White southerners have used them strategically as symbols of terror to try and keep African Americans from fighting for full equality.<sup>604</sup>

### California and the Lost Cause

In California, white Americans popularized the Lost Cause mythology with national audiences. The Hollywood film industry was responsible for bringing the Lost Cause to

movie screens and making it popular with many white Americans, North and South, during the first half of the 1900s.<sup>605</sup>

D.W. Griffith’s blockbuster film, *The Birth of a Nation* (1915), falsely showed members of the Ku Klux Klan as heroes who were protecting white women and southern honor against violent African Americans (mostly played by white actors who painted their faces black). This film was the main factor behind the revival of the Ku Klux Klan in the early 1900s.<sup>606</sup> *Gone with Wind* (1939) celebrated the pre-Civil War South by showing a world of kindly enslavers, loyal and happy enslaved people, and heroic Confederates fighting for the southern way of life.<sup>607</sup>

White Californians also built Confederate monuments across the state. For example, a plaque honoring Confederate President Jefferson Davis, set up by the United Daughters of the Confederacy, stood along a Bakersfield, California, highway for almost 80 years.<sup>608</sup> A monument in the Hollywood Forever Cemetery in Los

Angeles, California, built in 1925, celebrated all Confederates who died on the Pacific Coast.<sup>609</sup> Although both of these monuments have now been removed, their existence reminds us of California’s complicity in the United States’ long history of enslavement, white supremacist terrorism, and systemic racism against African Americans.

**The Hollywood film industry was responsible for popularizing white supremacist movies, like *The Birth of a Nation*, during the first half of the 1900s. This film was the main factor behind the revival of the Ku Klux Klan in the 1900s.**

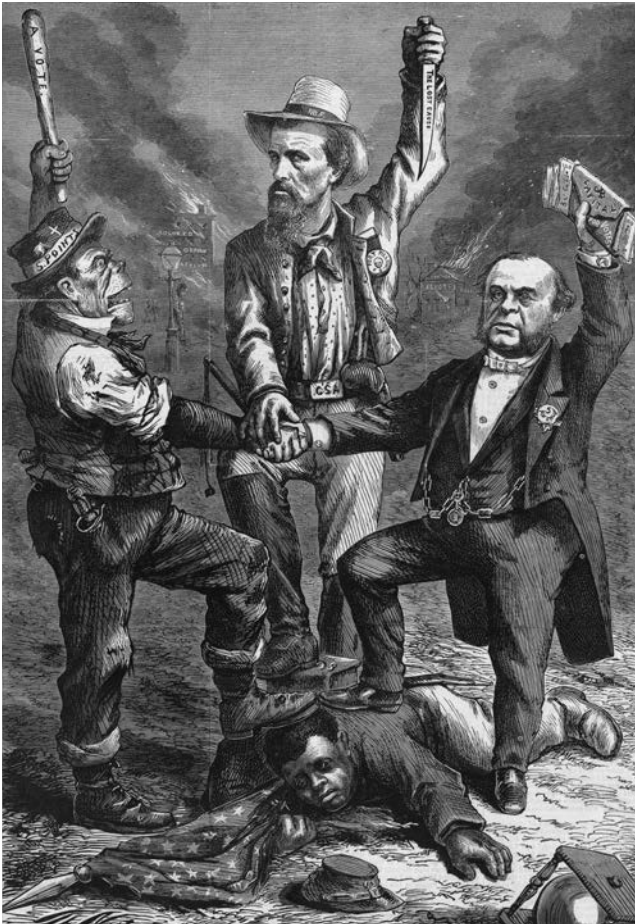
## X. Conclusion

In order to steal and profit from the labor of millions of human beings for 244 years, the colonial American and U.S. governments built an institution of enslavement that was markedly different from the type of slavery that the world had seen before. Americans passed laws that enshrined a racial hierarchy with white people at the top and African American people at the bottom. This hierarchy was based on the false idea that all white people were naturally superior in intelligence and morality to all African American people, and white Americans then used these ideas to justify the lifelong enslavement of people of African ancestry and their descendants. American law enslaved babies from the moment they were born, through adulthood, until the moment they died, and ensured that all their descendants suffered the same fate. During certain time periods, state governments even passed laws that made it illegal for enslavers to voluntarily free enslaved people from their bondage. Enslavement was a

badge pinned on people of African descent because of the color of their skin.

When slavery formally ended in 1865, this racial hierarchy continued functioning. The end of Reconstruction and the rise of the Lost Cause brought a long period of political, social, economic, and legal inequality for African Americans that white people enforced through terrorism, violence, and exploiting legal loopholes. This period was known as “Jim Crow,” after a racist stereotyped character popular with white Americans, and it lasted roughly 60 to 70 years, from the 1890s to the Civil Rights Movement of the 1950s and 1960s. Without the laws that made enslavement legal, American citizens, aided by government officials, terrorized, murdered, and abused their African American neighbors to maintain this legacy of slavery, as discussed in Chapter 3, Racial Terror. During this period, white Southerners

COURTESY OF THOMAS NAST / LIBRARY OF CONGRESS



"This is a white man's government" (1868)

gradually took away African American Southerners' rights to vote by using violent intimidation against and legal loopholes such as literacy tests and poll taxes to disqualify African American voters, as discussed in Chapter 4, Political Disenfranchisement. As African American people fled violence and oppression in the rural South to find economic opportunity in the North and the West, government officials maintained the racial hierarchy by putting up barriers to prevent African American and white Americans from living in the same neighborhoods, as discussed in Chapter 5, Housing Segregation, and allowing private companies to prevent African American and white Americans from holding the same jobs, as discussed in Chapter 10, Stolen Labor and Hindered Opportunity. New systems of forced labor, such as convict leasing, sharecropping, and debt peonage kept formerly enslaved African Americans working for white Americans on cotton plantations or in other industries, as discussed in Chapter 10. Much of this

forced labor rested on discrimination in law enforcement, judicial decisions, and prison sentencing that doomed African Americans to slavery-like conditions, as discussed in Chapter 11, An Unjust Legal System.

Government actions relegated African Americans to mostly urban neighborhoods with underfunded schools, as discussed in Chapter 6, Separate and Unequal Education, and menial and service jobs. U.S. Supreme Court decisions such as the *Civil Rights Cases* (1883) and *Plessy v. Ferguson* (1896) excluded African Americans from using public facilities such as schools on equal terms with white Americans and validated discrimination in housing that excluded African Americans from desirable neighborhoods. These legal decisions and violent practices caused direct physical harm to African Americans by segregating them in polluted, unhealthy neighborhoods, as discussed in Chapter 7, Racism in Environment and Infrastructure, and denying them equal access to quality healthcare, as discussed in Chapter 12, Mental and Physical Harm and Neglect.

The racial hierarchy that laws created during enslavement also created deeply harmful and untrue racial stereotypes, which have followed African Americans throughout American history, as discussed in Chapter 9, Control over Spiritual, Creative and Cultural Life. Inequalities in the criminal justice system, child welfare laws, housing, and healthcare harmed the survival of African American families, as discussed in Chapter 8, Pathologizing the African American Family, while discriminatory, predatory banking practices and employment discrimination prevented many African Americans from accumulating generational wealth to pass down to their children, as discussed in Chapter 13, The Wealth Gap.

Four hundred years of discrimination has resulted in an enormous and persistent wealth gap between African American and white Americans, as discussed in Chapter 13 The Wealth Gap, and continuous and compounding harm on the health of African Americans, as discussed in Chapter 12, Mental and Physical Harm and Neglect.

As the following chapters will show, these effects of slavery continue to be embedded in American society today and have never been sufficiently remedied. The governments of the United States and the State of California have never apologized to or compensated African Americans for these harms.



## Endnotes

<sup>1</sup> Balkansky, [What, to the American Slave, is Your 4th of July?](#) (July 15, 2020) Library of Congress (as of Jan. 16, 2022) (Balkansky).

<sup>2</sup> *Ibid.*

<sup>3</sup> Douglass, [What to the Slave is the Fourth of July?](#) (July 5, 1852) Teaching American History (as of Nov. 3, 2021) (*What to the Slave*).

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Wilkerson, *Caste: The Origins of Our Discontents* (Oprah's Book Club Edition, 2020), pp. 28–29 (Wilkerson).

<sup>9</sup> Patterson, *Slavery and Social Death: A Comparative Study* (1982), pp. vii–viii (Patterson).

<sup>10</sup> Davis, *Inhuman Bondage: The Rise and Fall of Slavery in the New World* (2006), pp. 53–54 (Davis); Kolchin, *American Slavery: 1619–1877* (1993), pp. 5–6 (Kolchin).

<sup>11</sup> Davis, *supra*, at pp. 53–54.

<sup>12</sup> Kolchin, *supra*, at pp. 17–18.

<sup>13</sup> *Id.* at pp. 4–5.

<sup>14</sup> [Slavery in Ancient Rome](#), British Museum (as of Jan. 23, 2022).

<sup>15</sup> Patterson, *supra*, at pp. 152–157.

<sup>16</sup> Kendi, *Stamped from the Beginning: The Definitive History of Racist Ideas in America* (2016), pp. 19–21 (Kendi).

<sup>17</sup> Patterson, *supra*, at pp. 105–130.

<sup>18</sup> *Id.* at pp. 134–147, 262–263.

<sup>19</sup> Kolchin, *supra*, at p. 4.

<sup>20</sup> *Ibid.*; Patterson, *supra*, at pp. 62–64, 92–93, 173–175.

<sup>21</sup> Kolchin, *supra*, at p. 5.

<sup>22</sup> Guasco, [The Fallacy of 1619: Rethinking the History of Africans in Early America](#) (Sept. 4, 2017) Black Perspectives, African American Intellectual History Society (as of Jan. 17, 2022) (Guasco); Kolchin, *supra*, at pp. 5–6; Eltis, [A Brief Overview of](#)

[the Trans-Atlantic Slave Trade: Introduction](#) (2007) SlaveVoyages (as of Jan. 17, 2022) (*Brief Overview-Introduction*).

<sup>23</sup> Kolchin, *supra*, at pp. 6–7.

<sup>24</sup> *Id.* at pp. 7–8.

<sup>25</sup> *Ibid.*; *Brief Overview-Introduction, supra*.

<sup>26</sup> Eltis, [A Brief Overview of the Trans-Atlantic Slave Trade: Early Slaving Voyages](#) (2007) SlaveVoyages (as of Jan. 17, 2022) (*Brief Overview-Early Slaving Voyages*).

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> Guasco, *supra*; [Trans-Atlantic Slave Trade—Estimates](#) (2007) SlaveVoyages (as of March 12, 2022).

<sup>31</sup> Guasco, *supra*.

<sup>32</sup> Torres-Spelliscy, [Everyone is talking about 1619. But that's not actually when slavery in America started](#) (Aug. 23, 2019) Washington Post (as of Jan. 17, 2022).

<sup>33</sup> Kendi, *supra*, at p. 38.

<sup>34</sup> Kolchin, *supra*, at pp. 8–10.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Id.* at 15–16.

<sup>37</sup> *Id.* at 14–16.

<sup>38</sup> Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (1975), pp. 327–328 (Morgan).

<sup>39</sup> *Id.* at p. 328.

<sup>40</sup> *Id.* at pp. 338–346.

<sup>41</sup> *Id.* at pp. 369, 385–386.

<sup>42</sup> Kendi, *supra*, at p. 53.

<sup>43</sup> Kolchin, *supra*, at pp. 17–18.

<sup>44</sup> Kendi, *supra*, at pp. 38–41.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Id.* at pp. 40–41.

<sup>47</sup> *Id.* at p. 48.

<sup>48</sup> Morgan, *supra*, at p. 337.

<sup>49</sup> Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (1998), pp. 123–124 (Berlin).

<sup>50</sup> *Ibid.*

<sup>51</sup> Morgan, *supra*, at pp. 334–335.

<sup>52</sup> Kendi, *supra*, at p. 41.

<sup>53</sup> Berlin, *supra*, at p. 124.

<sup>54</sup> Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (2014), pp. 32–35 (Baptist).

<sup>55</sup> Sterling, *Through a Glass, Darkly: Systemic Racism, Affirmative Action, and Disproportionate Minority Contact* (December 2021) 120 Mich. L. Rev. 462–463.

<sup>56</sup> Kendi, *supra*, at pp. 8–10.

<sup>57</sup> *Id.* at pp. 31–32.

<sup>58</sup> *Id.* at pp. 9–10.

<sup>59</sup> Kolchin, *supra*, at pp. 18–19.

<sup>60</sup> Fogelman, *Migrations to the Thirteen British North American Colonies, 1700–1775: New Estimates* (Spring 1992) 22 J. of Interdisciplinary Hist. 700 (Fogelman).

<sup>61</sup> *Id.* at pp. 697–698.

<sup>62</sup> *Ibid.*

<sup>63</sup> Kolchin, *supra*, at p. 11.

<sup>64</sup> [Trans-Atlantic Slave Trade—Estimates](#), SlaveVoyages (2007) (as of March 12, 2022).

<sup>65</sup> Mintz, [Historical Context: American Slavery in Comparative Perspective](#) Gilder Lehrman Institute of American History (as of Jan. 17, 2022).

<sup>66</sup> Bilow, [Royal African Company](#) (Feb. 26, 2009) Blackpast.org (as of March 15, 2022).

<sup>67</sup> Pettigrew, *Freedom's Debt: The Royal African Company and the Politics of the Atlantic Slave Trade, 1672–1752* (2013), p. 11 (Pettigrew).

<sup>68</sup> *Ibid.*

<sup>69</sup> Davis, *supra*, at pp. 100–101.

<sup>70</sup> Walvin, *Crossings: Africa, the Americas and the Atlantic Slave Trade* (2013), pp. 31–32 (Walvin); Davis, *supra*, at p. 89.

<sup>71</sup> Davis, *supra*, at pp. 12–13; Walvin, *supra*, at pp. 31–32; Kolchin, *supra*, at p. 20.

<sup>72</sup> Kolchin, *supra*, at p. 20.

<sup>73</sup> Walvin, *supra*, at pp. 31–32.

<sup>74</sup> Kolchin, *supra*, at p. 20.

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> Smallwood, *Saltwater Slavery: A Middle Passage from Africa to American Diaspora* (2007), pp. 23–24 (Smallwood).

<sup>78</sup> Walvin, *supra*, at pp. 40–41.

<sup>79</sup> Davis, *supra*, pp. 100–101; Smallwood, *supra*, 20–32.

<sup>80</sup> Davis, *supra*, pp. 100–101; Mustakeem, *Slavery at Sea: Terror, Sex, and Sickness in the Middle Passage* (2016), pp. 30–32 (Mustakeem).

<sup>81</sup> Davis, *supra*, at pp. 12–13.

<sup>82</sup> *Id.* at p. 100; Wilson-Fall, *Memories of Madagascar and Slavery in the Black Atlantic* (2015), pp. 2–3.

<sup>83</sup> Davis, *supra*, at p. 100.

<sup>84</sup> Mustakeem, *supra*, at p. 31.

<sup>85</sup> Rediker, *The Slave Ship: A Human History* (2007), pp. 12–13 (Rediker).

<sup>86</sup> *Trans-Atlantic Slave Trade—Estimates* (2007) SlaveVoyages (as of March 13, 2022). This estimate is calculated by subtracting the number of enslaved people who disembarked after a slaving voyage from the entire number of enslaved people who embarked from Africa.

<sup>87</sup> Walvin, *supra*, at pp. 83–86.

<sup>88</sup> *Ibid.*

<sup>89</sup> *Id.* at pp. 48, 83.

<sup>90</sup> *Id.* at p. 83.

<sup>91</sup> *Ibid.*

<sup>92</sup> *The Middle Passage*, National Museum of American History, Smithsonian Institution (as of March 13, 2022).

<sup>93</sup> Haines, McDonald, and Shlomowitz, *Mortality and Voyage Length in the Middle Passage Revisited* (Oct. 2001) 38 *Explorations in Econ. Hist.* 506.

<sup>94</sup> Smallwood, *supra*, at p. 71.

<sup>95</sup> Davis, *supra*, at p. 100.

<sup>96</sup> Rediker, *The Slave Ship: A Human History* (2007), p. 68 (Rediker).

<sup>97</sup> Eltis, *A Brief Overview of the Trans-Atlantic Slave Trade: The Middle Passage* (2007) Slavevoyages (as of March 13, 2022).

<sup>98</sup> Mustakeem, *supra*, at p. 59.

<sup>99</sup> Mustakeem, *supra*, at p. 59.

<sup>100</sup> Kolchin, *supra*, at p. 21.

<sup>101</sup> Rediker, *supra*, at pp. 68–69.

<sup>102</sup> Mustakeem, *supra*, at pp. 55–58.

<sup>103</sup> Walvin, *supra*, at p. 91.

<sup>104</sup> Olaudah Equiano quoted in California Task Force to Study and Develop Reparation Proposals for African Americans (September 23, 2021), *Testimony of Dr. Daina Ramey Berry*, (as of Jan. 26, 2022).

<sup>105</sup> Mustakeem, *supra*, at pp. 59–62.

<sup>106</sup> Walvin, *supra*, at pp. 95–96.

<sup>107</sup> Mustakeem, *supra*, at pp. 64–70.

<sup>108</sup> *Id.* at pp. 132–136.

<sup>109</sup> Walvin, *supra*, at pp. 86, 91–92; Mustakeem, *supra*, at pp. 136–144.

<sup>110</sup> Mustakeem, *supra*, at pp. 81–90.

<sup>111</sup> *Id.* at pp. 62–64, 71–72.

<sup>112</sup> *Id.* at pp. 82–90.

<sup>113</sup> *Id.* at pp. 76–82, 94–101.

<sup>114</sup> *Id.* at pp. 188–189.

<sup>115</sup> Kolchin, *supra*, at p. 19.

<sup>116</sup> Walvin, *supra*, at pp. 90–91.

<sup>117</sup> *Ibid.*

<sup>118</sup> *Trans-Atlantic Slave Trade—Estimates*, SlaveVoyages (as of Jan. 24, 2022).

<sup>119</sup> Rediker, *supra*, at p. 5.

<sup>120</sup> Mustakeem, *supra*, at pp. 160–165.

<sup>121</sup> Patterson, *supra*, at p. 5.

<sup>122</sup> See Section VI below on these new communities and culture.

<sup>123</sup> Foner, *Forever Free: The Story of Emancipation and Reconstruction* (2005), p. 8 (Forever Free).

<sup>124</sup> *Ibid.*

<sup>125</sup> Kolchin, *supra*, at pp. 24–26.

<sup>126</sup> *Ibid.*

<sup>127</sup> *African Impact on Colonial Agriculture*, The American Revolution,

Colonial Williamsburg (as of March 15, 2022) (*African Impact*).

<sup>128</sup> Seck, *Bouki fait Gombo: A History of the Slave Community of Habitation Haydel (Whitney Plantation) Louisiana, 1750–1860* (2014), chapter 3; Schafer, *Indigo Cultivation: Life at Governor James Grant's Villa Plantation*, Florida History Online (as of March 15, 2022).

<sup>129</sup> *African Impact*, *supra*.

<sup>130</sup> Kolchin, *supra*, at pp. 26–27.

<sup>131</sup> *Ibid.*

<sup>132</sup> *Id.* at p. 27.

<sup>133</sup> *Forever Free*, *supra*, at p. 8.

<sup>134</sup> *Id.* at pp. 8–9.

<sup>135</sup> Baptist, *supra*, at p. 4; *American Revolution, Slavery and Remembrance: A Guide to Sites, Museums, and Memory*, Colonial Williamsburg Foundation (as of Dec. 10, 2021).

<sup>136</sup> *Forever Free*, *supra*, at pp. 8–9.

<sup>137</sup> *Declaration of Independence* (July 4, 1776) (as of Jan. 24, 2022) (Declaration).

<sup>138</sup> *Forever Free*, *supra*, at p. 9.

<sup>139</sup> Thomas Day, quoted in Chernow, *Alexander Hamilton* (2004), p. 307.

<sup>140</sup> *Forever Free*, *supra*, at p. 9.

<sup>141</sup> Abigail Adams, quoted in *Forever Free*, *supra*, at p. 9.

<sup>142</sup> *Jefferson's Attitudes Toward Slavery*, Jefferson and Slavery, Monticello (as of Nov. 2, 2021).

<sup>143</sup> Jefferson, *Jefferson's "original Rough draught" of the Declaration of Independence*, Declaring Independence: Drafting the Documents, Library of Congress (as of Jan. 24, 2022) (*Original Rough Draught*).

<sup>144</sup> *Ibid.*

<sup>145</sup> Jefferson, *Notes of the Proceedings in the Continental Congress, 7 June – 1 August, 1776*, Library of Congress, Founders Online (as of Jan. 24, 2022) (*Notes*).

<sup>146</sup> *Ibid.*

<sup>147</sup> *Ibid.*

<sup>148</sup> *Ibid.*

<sup>149</sup> *Declaration*, *supra*.

- <sup>150</sup> Forever Free, *supra*, at p. 9.
- <sup>151</sup> Nash, *The African Americans' Revolution*, in the Oxford Handbook of the American Revolution, edited by Jane Kamensky and Edward G. Gray (2012), p. 261 (Nash).
- <sup>152</sup> Kolchin, *supra*, at pp. 70–71.
- <sup>153</sup> Nash, *supra*, at pp. 258–259.
- <sup>154</sup> *Id.* at pp. 259–260.
- <sup>155</sup> Kolchin, *supra*, at pp. 72–73.
- <sup>156</sup> *Id.* at p. 73.
- <sup>157</sup> Nash, *supra*, at pp. 256–257.
- <sup>158</sup> *Id.* at pp. 254–256.
- <sup>159</sup> *Id.* at p. 254–255.
- <sup>160</sup> *Id.* at p. 254.
- <sup>161</sup> Kolchin, *supra*, at p. 78.
- <sup>162</sup> *Id.* at pp. 78–79.
- <sup>163</sup> *Id.* at p. 78; [Massachusetts Constitution of 1780, Part 1, Article 1](#) (as of Jan. 24, 2022).
- <sup>164</sup> Nash, *supra*, at p. 258.
- <sup>165</sup> Kolchin, *supra*, at p. 78.
- <sup>166</sup> *Id.* at pp. 78–79.
- <sup>167</sup> *Ibid.*
- <sup>168</sup> *Id.* at p. 77.
- <sup>169</sup> *Id.* at pp. 77–78.
- <sup>170</sup> *Ibid.*
- <sup>171</sup> Forever Free, *supra*, at pp. 9–10.
- <sup>172</sup> *Ibid.*
- <sup>173</sup> [Slaves who Gained Freedom](#), Thomas Jefferson Encyclopedia, Monticello, (as of Jan. 24, 2022) (*Gained Freedom*).
- <sup>174</sup> *Gained Freedom, supra*; [The Life of Sally Hemings](#), Monticello (as of Jan. 24, 2022). After Jefferson's death, his family allowed Sally Hemings to leave without pursuing her, effectively setting her free.
- <sup>175</sup> Baptist, *supra*, at p. 18.
- <sup>176</sup> Kolchin, *supra*, at pp. 85–86.
- <sup>177</sup> Baptist, *supra*, at p. xxiii.
- <sup>178</sup> *Ibid.*; Bourne, [Slavery in the United States](#), EH.Net, Economic History Association.
- <sup>179</sup> Baptist, *supra*, at p. 18.
- <sup>180</sup> Forever Free, *supra*, at pp. 10–11.
- <sup>181</sup> Baptist, *supra*, at pp. 18, 82.
- <sup>182</sup> Kolchin, *supra*, at pp. 94–96.
- <sup>183</sup> Krauthamer, Black Slaves, Indian Masters: Slavery, Emancipation, and Citizenship in the Native American South (2013), pp. 7–8 (Krauthamer).
- <sup>184</sup> *Id.* at pp. 17–19, 38–39.
- <sup>185</sup> Baptist, *supra*, at pp. 228–229.
- <sup>186</sup> Krauthamer, *supra*, at pp. 42–43.
- <sup>187</sup> Naylor, African Cherokees in Indian Territory: From Chattel to Citizens (2008), p. 1.
- <sup>188</sup> Baptist, *supra*, at pp. 9–11.
- <sup>189</sup> US Constitution, Article I, Section 9, Clause 1.
- <sup>190</sup> [Trans-Atlantic Slave Trade—Estimates](#), SlaveVoyages (as of March 14, 2022).
- <sup>191</sup> US Constitution, Article I, Section 8, Clause 15; and US Constitution, Article IV, Section 4.
- <sup>192</sup> Waldstreicher, [How the Constitution was Indeed Pro-Slavery](#) (Sept. 19, 2015) The Atlantic ([as of Jan. 24, 2022](#)) (Waldstreicher).
- <sup>193</sup> US Constitution, Article IV, Section 2, Clause 3.
- <sup>194</sup> Rael, [A Compact for the Good of America?: Slavery and the Three-Fifths Compromise](#) (Dec. 19, 2016) Black Perspectives, African American Intellectual History Society (as of Feb. 9, 2022) (Rael).
- <sup>195</sup> *Ibid.*
- <sup>196</sup> *Ibid.*
- <sup>197</sup> *Ibid.*
- <sup>198</sup> *Ibid.*
- <sup>199</sup> US Constitution, Article I, Section 2, Clause 3.
- <sup>200</sup> Rael, *supra*.
- <sup>201</sup> Baptist, *supra*, at pp. 9–10.
- <sup>202</sup> US Constitution, Article II, Section 1, Clause 2.
- <sup>203</sup> Baptist, *supra*, at p. 9.
- <sup>204</sup> Wilentz, [Constitutionally, Slavery is no National Institution](#) (Sept. 16, 2015) New York Times (as of Jan. 24, 2022) (*Constitutionally*).
- <sup>205</sup> US Constitution, Article IV, Section 2, Clause 3.
- <sup>206</sup> US Constitution, Article I, Section 2, Clause 3.
- <sup>207</sup> Wilentz, No Property in Man: Slavery and Antislavery at the Nation's Founding (2018), pp. 10–11.
- <sup>208</sup> *Constitutionally, supra*.
- <sup>209</sup> *Ibid.*
- <sup>210</sup> Waldstreicher, *supra*.
- <sup>211</sup> Richards, The Slave Power: The Free North and Southern Domination, 1780–1860 (2000), pp. 41–45 (Richards).
- <sup>212</sup> Waldstreicher, *supra*.
- <sup>213</sup> Presidents who owned enslaved people while in office included George Washington, Thomas Jefferson, James Madison, James Monroe, Andrew Jackson, John Tyler, James K. Polk, and Zachary Taylor. See Rosenwald, [Slave-owning presidents become targets of protestors](#) (June 3, 2020) Washington Post (as of Jan. 24, 2022).
- <sup>214</sup> Richards, *supra*, at p. 9.
- <sup>215</sup> *Ibid.*
- <sup>216</sup> Weil and Adrian Blanco, [More than 1,700 Congressmen Once Enslaved Black People. This Is Who They Were, and How They Shaped the Nation](#) (Jan. 20, 2022) Washington Post (As of January 24, 2022) (Weil and Blanco).
- <sup>217</sup> *Ibid.*
- <sup>218</sup> Baptist, *supra*, at p. 12.
- <sup>219</sup> Richards, *supra*, at pp. 48–49.
- <sup>220</sup> Khalil Gibran Muhammad, [The Sugar that Saturates the American Diet has a Barbaric History as the "White Gold" that Fueled Slavery](#) (August 14, 2019) New York Times (as of March 14, 2022) (Muhammad).
- <sup>221</sup> *Ibid.*
- <sup>222</sup> Forever Free, *supra*, at pp. 28–29; Richards, *supra*, pp. 78–79.
- <sup>223</sup> Baptist, *supra*, at pp. 154–158.
- <sup>224</sup> Kolchin, *supra*, at pp. 94–97.



- <sup>225</sup> Baptist, *supra*, at pp. 2–3.
- <sup>226</sup> Pritchett, Quantitative Estimates of the United States Interregional Slave Trade, 1820–1860 (June 2001) 61 J. of Econ. Hist. 474.
- <sup>227</sup> Baptist, *supra*, at pp. 2–3.
- <sup>228</sup> *Id.* at p. 17.
- <sup>229</sup> *Id.* at pp. 17–19, 23.
- <sup>230</sup> *Id.* at pp. 18–32.
- <sup>231</sup> *Ibid.*
- <sup>232</sup> Rothman, The Ledger and the Chain: How Domestic Slave Traders Shaped America (2021), pp. 91–92.
- <sup>233</sup> Baptist, *supra*, at pp. 1–2.
- <sup>234</sup> *Ibid.*
- <sup>235</sup> Ball, Slavery in the United States: A Narrative of the Life and Adventures of Charles Ball, a Black Man (1837), p. 69.
- <sup>236</sup> Baptist, *supra*, at pp. 87–88.
- <sup>237</sup> Johnson, Soul by Soul: Life Inside the Antebellum Slave Market (1999), pp. 2–3 (Soul by Soul).
- <sup>238</sup> *Id.* at pp. 119–121.
- <sup>239</sup> *Id.* at pp. 2–3.
- <sup>240</sup> *Id.* at p. 164.
- <sup>241</sup> *Id.* at pp. 129–130.
- <sup>242</sup> *Id.* at pp. 121–123.
- <sup>243</sup> *Id.* at pp. 141–142, 145.
- <sup>244</sup> *Id.* at pp. 130.
- <sup>245</sup> *Id. supra*, at pp. 143–144, 147–149.
- <sup>246</sup> *Id. supra*, at p. 58.
- <sup>247</sup> Berry, The Price for their Pound of Flesh: The Value of the Enslaved, from Womb to Grave, in the Building of a Nation (2017), pp. 66–70 (Berry).
- <sup>248</sup> Baptist, *supra*, at pp. 102–103.
- <sup>249</sup> Soul by Soul, *supra*, at pp. 153–154; Berry, *supra*, at p. 18.
- <sup>250</sup> Berry, *supra*, at pp. 46–47, 136–137.
- <sup>251</sup> *Id.* at p. 18, 78–83.
- <sup>252</sup> *Id.* at p. 18; Baptist, *supra*, at pp. 240–243.
- <sup>253</sup> Soul by Soul, *supra*, at pp. 143–144.
- <sup>254</sup> Northup, Twelve Years a Slave (1853), pp. 80–82, 84–88 (Northup).
- <sup>255</sup> Baptist, *supra*, at pp. 116–124.
- <sup>256</sup> Dattel, [Cotton in a Global Economy: Mississippi \(1800–1860\)](#) (October 2006) Mississippi History Now (as of March 15, 2022).
- <sup>257</sup> Northup, *supra*, at pp. 163–165.
- <sup>258</sup> *Id.* at pp. 165–167.
- <sup>259</sup> *Id.* at p. 168.
- <sup>260</sup> *Id.* at pp. 163–168.
- <sup>261</sup> *Id.* at p. 171.
- <sup>262</sup> *Id.* at p. 172.
- <sup>263</sup> Baptist, *supra*, at pp. 116–117.
- <sup>264</sup> *Ibid.*
- <sup>265</sup> Rosenthal, Reckoning with Slavery: How Revisiting Management’s Uncomfortable Past Can Help Us Confront Challenges Today (2021) 20 Academy of Management Learning & Ed. 467–472.
- <sup>266</sup> Baptist, *supra*, at pp. 120–123.
- <sup>267</sup> Douglass, Narrative of the Life of Frederick Douglass, An American Slave. Written by Himself (1845), p. 11 (Douglass).
- <sup>268</sup> Northup, *supra*, at p. 165.
- <sup>269</sup> *Id.* at pp. 165, 167–168.
- <sup>270</sup> *Id.* at p. 177.
- <sup>271</sup> *Id.* at pp. 127–128.
- <sup>272</sup> *Id.* at p. 128.
- <sup>273</sup> *Ibid.*
- <sup>274</sup> *Id.* at pp. 170–171.
- <sup>275</sup> *Id.* at p. 170.
- <sup>276</sup> Douglass, *supra*, at pp. 10–11.
- <sup>277</sup> *Id.* at pp. 26–27.
- <sup>278</sup> *Id.* at p. 27.
- <sup>279</sup> Northup, *supra*, at 168.
- <sup>280</sup> Berry, *supra*, at pp. 78–83.
- <sup>281</sup> Douglass, *supra*, at pp. 3–4.
- <sup>282</sup> *Ibid.*
- <sup>283</sup> Berry, *supra*, at pp. 78–80.
- <sup>284</sup> Douglass, *supra*, at pp. 62–63.
- <sup>285</sup> Forever Free, *supra*, at p. 16.
- <sup>286</sup> *Id.* at pp. 16–17.
- <sup>287</sup> Berlin, *supra*, at pp. 130–131.
- <sup>288</sup> *Id.* at p. 130; Forever Free, *supra*, at p. 16; Kolchin, *supra*, at p. 140.
- <sup>289</sup> Kolchin, *supra*, at p. 140; Berlin, *supra*, at pp. 130–131.
- <sup>290</sup> Berlin, *supra*, at p. 130.
- <sup>291</sup> *Id.* at pp. 132–133.
- <sup>292</sup> Forever Free, *supra*, at p. 16.
- <sup>293</sup> *Ibid.*
- <sup>294</sup> Kolchin, *supra*, pp. 149–150.
- <sup>295</sup> *Ibid.*
- <sup>296</sup> Raboteau, African American Religion (1999), p. 54–56 (Raboteau).
- <sup>297</sup> *Id.* at pp. 55–57.
- <sup>298</sup> Forever Free, *supra*, at p. 20.
- <sup>299</sup> *Ibid.*
- <sup>300</sup> *Id.* at pp. 19–20.
- <sup>301</sup> *Id.* at pp. 20–21.
- <sup>302</sup> *Ibid.* quoting Alice Sewall.
- <sup>303</sup> Forever Free, *supra*, at p. 23.
- <sup>304</sup> *Id.* at pp. 22–23.
- <sup>305</sup> Farrow et. al, Complicity: How the North Promoted, Prolonged, and Profited from Slavery (2005), p. 95–99 (Complicity).
- <sup>306</sup> *Id.* at pp. 98–99.
- <sup>307</sup> *Ibid.*
- <sup>308</sup> *Id.* at p. 95.
- <sup>309</sup> *Ibid.*
- <sup>310</sup> *Ibid.*
- <sup>311</sup> Mintz, [Historical Context: Was Slavery the Engine of American Economic Growth?](#), Gilder Lehrman Institute of American History (as of Jan. 24, 2022).
- <sup>312</sup> Complicity, *supra*, at pp. 6, 25–26.
- <sup>313</sup> U.S. Bureau of the Census, [Manufactures of the United States in 1860; compiled from the original returns of the Eighth Census under the direction of the Secretary of the Interior](#) (1865), p. x (1860 Census) (as of Jan. 24, 2022) (1860 US Census).

<sup>314</sup> *Ibid.*

<sup>315</sup> [White New Yorkers in Slave Times](#), Slavery in New York virtual exhibit, p. 1 (as of Jan. 24, 2022).

<sup>316</sup> [Slave Market](#), Mapping the African American Past, Columbia University Center for Teaching and Learning (as of Jan. 24, 2022).

<sup>317</sup> Foner, [Gateway to Freedom: The Hidden History of the Underground Railroad](#) (2015), pp. 43–44 (Gateway).

<sup>318</sup> *Id.* at pp. 44–45.

<sup>319</sup> *Ibid.*

<sup>320</sup> *Ibid.*

<sup>321</sup> Sidel, [A Historian's Quest Links J.P. Morgan To Slave Ownership; Bank's Distant Predecessor Took Human Collateral For Rich Client's Debt](#) (May 10, 2005) Wall Street Journal (as of Jan. 24, 2022).

<sup>322</sup> Swarns, [Insurance Policies on Slaves: New York Life's Complicated Past](#) (Dec. 18, 2016) New York Times (as of Jan. 24, 2022) (Swarns).

<sup>323</sup> [Supporting the Trade, Purchased Lives](#), The Historic New Orleans Collection, (as of Jan. 24, 2022).

<sup>324</sup> Swarns, *supra*.

<sup>325</sup> [State of California, Slavery Era Insurance Policies](#), SB 2199, Chapter 934 (2000), (as of Jan. 24, 2022).

<sup>326</sup> Thomas, [The hidden links between slavery and Wall Street](#) (Aug. 29, 2019) BBC News (as of Jan. 24, 2022).

<sup>327</sup> Gateway, *supra*, at p. 45.

<sup>328</sup> White, [Building Havemeyer Hall: Charles Frederick Chandler and the Sugar Refining Industry](#), Columbia University and Slavery, Columbia University (as of Jan. 24, 2022) (White).

<sup>329</sup> *Ibid.*

<sup>330</sup> [Domino Sugar Factory](#), NYC-Arts: The Complete Guide (as of Jan. 24, 2022).

<sup>331</sup> [Domino Sugar](#), ASR Group (as of Jan. 24, 2022).

<sup>332</sup> Staples, [A Fate Worse Than Slavery, Unearthed in Sugar Land](#) (Oct. 27, 2018) New York Times (as of Jan. 24, 2022) (Staples).

<sup>333</sup> *Ibid.*

<sup>334</sup> Hardy, [Angola Inmates Make Sugar Cane Syrup the Old-Fashioned Way](#) (Dec. 23, 2014) The Advocate (as of Jan. 24, 2022).

<sup>335</sup> Beckert, Katherine Stevens, et al., [Harvard and Slavery: Seeking a Forgotten History](#) (2011), p. 11 (as of Jan. 24, 2022) (Harvard and Slavery).

<sup>336</sup> *Id.* at pp. 11–12, 15–17.

<sup>337</sup> [Slavery and Justice: Report of the Brown University Steering Committee on Slavery and Justice](#) (2006), pp. 14–17 (as of Jan. 24, 2022) (Slavery and Justice). One of the Brown brothers, Moses, converted to Quakerism, emancipated the enslaved people he owned, and became an antislavery activist.

<sup>338</sup> *Id.* at pp. 12–13.

<sup>339</sup> *Id.* at pp. 13–14.

<sup>340</sup> Gutmann, [Statement on Penn's Connections to Slavery](#) (June 28, 2018) Penn Today (as of Jan. 24, 2022).

<sup>341</sup> Sandweiss and Craig Hollander, [Princeton and Slavery: Holding the Center](#), Princeton University (as of Jan. 24, 2022).

<sup>342</sup> Foner, [Columbia and Slavery: A Preliminary Report](#), Columbia University (as of Jan. 24, 2022).

<sup>343</sup> Remnick, [Yale Grapples With Ties to Slavery in Debate Over a College's Name](#) (Sept. 11, 2015) New York Times (as of Jan. 24, 2022).

<sup>344</sup> Cano, [A Complicated History: Slavery at Dartmouth](#) (Feb. 19, 2020) The Dartmouth (as of Jan. 24, 2022).

<sup>345</sup> Oast, [Institutional Slavery: Slaveholding Churches, Schools, Colleges, and Businesses in Virginia, 1680 – 1860](#) (2016), p. 10 (Institutional Slavery).

<sup>346</sup> *Ibid.*

<sup>347</sup> *Ibid.*

<sup>348</sup> Oast, “The Worst Kind of Slavery”: Slave-owning Presbyterian Churches in Prince Edward County, Virginia (November 2010) 76 J. of Southern Hist. 867–868.

<sup>349</sup> Institutional Slavery, *supra*, at p. 131.

<sup>350</sup> *Id.* at pp. 131, 133–136.

<sup>351</sup> *Id.* at p. 147.

<sup>352</sup> *Id.* at p. 156.

<sup>353</sup> Swarns, [272 Slaves were Sold to Save Georgetown. What Does it Owe their Descendants?](#) (April 16, 2016) New York Times (as of Jan. 24, 2022) (*Sold to Save Georgetown*).

<sup>354</sup> *Ibid.* Another enslaving Jesuit institution was Saint Louis University. See Dorn, [Confronting SLU's History With Slavery](#) (Oct. 4, 2019) The University News (as of Jan. 24, 2022).

<sup>355</sup> [Report of the Working Group on Slavery, Memory, and Reconciliation to the President of Georgetown University](#) (2016), pp. 13–15 (as of Jan. 24, 2022) (Working Group).

<sup>356</sup> *Id.* at p. 14.

<sup>357</sup> *Id.* at p. 16.

<sup>358</sup> *Id.* at p. 15.

<sup>359</sup> Baptist, *supra*, p. 239.

<sup>360</sup> Ericson, [The Federal Government and Slavery: Following the Money Trail](#) (Spring 2005) 19 Stud. in Amer. Pol. Dev. 107 (Ericson).

<sup>361</sup> *Id.* at pp. 108 – 110.

<sup>362</sup> *Id.* at pp. 110 – 112.

<sup>363</sup> *Id.* at pp. 112 – 115.

<sup>364</sup> *Id.* at p. 115.

<sup>365</sup> Fehrenbacher and McAfee, [The Slaveholding Republic: An Account of the United States Government's Relations to Slavery](#) (2002), pp. 61–62 (Slaveholding Republic).

<sup>366</sup> *Id.* at p. 63.

<sup>367</sup> *Id.* at p. 67.

<sup>368</sup> Jeff Forret, [The Notorious “Yellow House” that Made Washington, D.C. a Slavery Capital](#) (July 22, 2020) Smithsonian Magazine (as of March 14, 2022).

<sup>369</sup> Northup, *supra*, at p. 43.

<sup>370</sup> Bell, [Commentary: Enslaved Labor and the Capitol](#) (2003) United States Capitol Historical Society (as of Jan. 24, 2022).

<sup>371</sup> Mann, [Building the White House](#), The White House Historical Association, (as of Jan. 24, 2022).

<sup>372</sup>Forever Free, *supra*, at pp. 25–27.

<sup>373</sup>*Ibid.*

<sup>374</sup>Gateway, *supra*, at pp. 4–7.

<sup>375</sup>Foner, Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War (1970), pp. 11–18, 27–29, 54–58.

<sup>376</sup>Forever Free, *supra*, at pp. 28–31.

<sup>377</sup>*Id.* at pp. 28–29.

<sup>378</sup>Rathbun, The Debate over Annexing Texas and the Emergence of Manifest Destiny, 4 Rhetoric and Pub. Affairs 459–494.

<sup>379</sup>Kendi, *supra*, at p. 186.

<sup>380</sup>Smith, Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction (2013), p. 7 (Freedom's Frontier).

<sup>381</sup>Freedom's Frontier, *supra*, at pp. 7–8.

<sup>382</sup>Forever Free, *supra*, at pp. 29–30.

<sup>383</sup>Gateway, *supra*, at pp. 119–120.

<sup>384</sup>*Id.* at pp. 124–125.

<sup>385</sup>*Id.* at pp. 125–130.

<sup>386</sup>McPherson, Battle Cry of Freedom: The Civil War Era (1988), p. 86 (McPherson).

<sup>387</sup>Freedom's Frontier, *supra*, at p. 9.

<sup>388</sup>*Id.* at pp. 7–8.

<sup>389</sup>*Id.* at p. 9.

<sup>390</sup>Smith, Remaking Slavery in a Free State: Masters and Slaves in Gold Rush California (Feb. 2011) 80 Pacific Hist. Rev. 33 (Remaking Slavery).

<sup>391</sup>Freedom's Frontier, *supra*, at p. 7.

<sup>392</sup>Lapp, Blacks in Gold Rush California (1977), pp. 4–9, 130–139 (Lapp).

<sup>393</sup>*Id.* at pp. 240–245.

<sup>394</sup>Poor census taking in isolated mining camps, the constant population flux, the loss or destruction of census returns, and the possible desire of enslavers to hide enslavement from census takers, make it impossible to construct a complete picture of enslavement in 1850s California. On these difficulties, see Freedom's Frontier, *supra*, at pp. 237–238; and Lapp, *supra*, at pp. 64–65.

<sup>395</sup>Lapp, *supra*, at p. 65.

<sup>396</sup>Freedom's Frontier, *supra*, at pp. 40, 257.

<sup>397</sup>*Id.* at p. 44.

<sup>398</sup>Rohrbough, Days of Gold: The California Gold Rush and the American Nation (1997), pp. 256–261 (Rohrbough).

<sup>399</sup>*Id.* at pp. 211–214.

<sup>400</sup>Freedom's Frontier, *supra*, at pp. 239–245.

<sup>401</sup>Rohrbough, *supra*, at pp. 136–138.

<sup>402</sup>Baur, *The Health Factor in the Gold Rush Era* (Feb. 1949) 18 Pacific Hist. Rev. 97–105.

<sup>403</sup>Inscow, Mountain Masters: Slavery and the Sectional Crisis in Western North Carolina (1996), p. 73.

<sup>404</sup>Freedom's Frontier, *supra*, at p. 259.

<sup>405</sup>*Id.* at pp. 239–245.

<sup>406</sup>For some examples, see Beasley, The Negro Trail Blazers of California (1919), pp. 70–71.

<sup>407</sup>*Remaking Slavery, supra*, at pp. 38–39; Lapp, *supra*, at pp. 132–133.

<sup>408</sup>*A Slave Flogged in San Jose* (Feb. 16, 1850) Daily Alta California, p. 2, col. 3.

<sup>409</sup>*Slaveholding in California* (Aug. 30, 1850), Liberator, p. 140, col. 5.

<sup>410</sup>An Illustrated History of Los Angeles County, California (1889), pp. 358–359; *Letter from California* (Oct. 11, 1850) Liberator, p. 161 col. 3.

<sup>411</sup>Freedom's Frontier, *supra*, at pp. 52–54.

<sup>412</sup>*Id.* at pp. 57–63.

<sup>413</sup>*Id.* at p. 54.

<sup>414</sup>*Id.* at pp. 50–52.

<sup>415</sup>*Id.* at pp. 52–54.

<sup>416</sup>Cal. Const. of 1849, art. I, § 18.

<sup>417</sup>Freedom's Frontier, *supra*, at p. 65.

<sup>418</sup>*Id.* at p. 7.

<sup>419</sup>*Id.* at p. 8.

<sup>420</sup>An Act Respecting Fugitives from Labor, and Slaves brought to this State prior to her Admission into the Union,

April 15, 1852, ch. 33, California Statutes, at 67–69 (An Act Respecting Fugitives).

<sup>421</sup>Freedom's Frontier, *supra*, at pp. 66–67.

<sup>422</sup>An Act Respecting Fugitives; Freedom's Frontier, *supra*, at pp. 67–70.

<sup>423</sup>Freedom's Frontier, *supra*, at pp. 67–70.

<sup>424</sup>*Id.* at pp. 67–68.

<sup>425</sup>An Act Respecting Fugitives; Freedom's Frontier, *supra*, at pp. 67–69.

<sup>426</sup>Freedom's Frontier, *supra*, at pp. 71–72.

<sup>427</sup>An Act to Amend an Act respecting Fugitives from Labor and Slaves Brought to this State prior to her Admission into the Union, Act of April 15, 1853, ch. 67, Cal. Stat., at 94.

<sup>428</sup>An Act Amendatory to an Act to Amend an Act respecting Fugitives from Labor and Slaves Brought to this State prior to her Admission into the Union, Act of April 13, 1854, ch. 22, Cal. Stat., at 30.

<sup>429</sup>Freedom's Frontier, *supra*, at pp. 71–72.

<sup>430</sup>*In re Perkins*, 2 Cal. 424 (1852); Freedom's Frontier, *supra*, at pp. 70–71.

<sup>431</sup>The three men had arrived in California in 1849 with Charles Perkins, the son of their enslaver. When Charles Perkins went back to Mississippi in 1851, he informally emancipated the men. Once he heard about the new California fugitive slave law, Perkins decided to use it to reclaim the men and force them to return to Mississippi as slaves.

<sup>432</sup>*In re Perkins*, 2 Cal. 424 (1852).

<sup>433</sup>*Id.* at pp. 455–457.

<sup>434</sup>*Id.* at pp. 452–455.

<sup>435</sup>*Dred Scott v. Sandford* (1857) 60 U.S. 393; In fact, one California antislavery attorney asserted that the lawyers for Dred Scott's enslavers cited the California case of *In re Perkins* as a precedent to support Scott's continued enslavement. For this evidence, see Cornelius Cole, "Judicial Influence--Politics upon the Bench, no. 3," scrapbook no. 1, box 38, Cole Family Papers, Charles E. Young Research Library,



Department of Special Collections, University of California-Los Angeles.

<sup>436</sup>These include: 1) the *Lathrop* case, described in Lapp, *supra*, at pp. 141–142; 2) the *Perkins* case, described in *In re Perkins*, 2 Cal. 424 (1852); 3) the case of Harriet Jordan, described in *Another Fugitive Slave Case* (Sept. 22, 1852) Daily Alta California p. 2, col. 2 and *A Fugitive Slave Case* (Sept. 22, 1852) Placer Times and Transcript p. 3, col. 1; 4) an anonymous enslaved woman in El Dorado County, described in *Fugitive Slave Case* (Oct. 2, 1852), Sacramento Daily Union p. 2, col. 3; 5) the case of Lucy Brown, described in *Fugitive Slave* (April 20, 1853) Daily Alta California, p. 2, col. 2; 6) the *O’Neil* case, described in *Habeas Corpus* (Jan. 19, 1854) Sacramento Daily Union p. 3, col. 2; 7) the case of an anonymous enslaved boy in Marysville, described in *Kidnapping* (March 31, 1854), Daily Alta California p.2, col. 2 and *The Kidnapping Case* (April 1, 1854) Placer Times and Transcript p. 2, col. 4; 8) the case of Stephen Spencer Hill, described in Johnson, *Roaring Camp: The Social World of the California Gold Rush* (2000), pp. 67–68, 191 (Roaring Camp); 9) the *Kibbe* case, described in untitled article (April 7, 1855) Daily Alta California, p. 2, col. 4; and 10) the case of *George Mitchell*, described in Lapp, *supra*, at p. 147.

<sup>437</sup>Freedom’s Frontier, *supra*, at pp. 71–73.

<sup>438</sup>*Remaking Slavery*, *supra*, at pp. 49–50.

<sup>439</sup>Freedom’s Frontier, *supra*, at pp. 75–76.

<sup>440</sup>These include: 1) The case of Bridget “Biddy” Mason, Hannah, and their enslaved children and grandchildren, described in Taylor, *In Search of the Racial Frontier: African Americans in the American West, 1528–1990* (1998), pp. 79–80 (Taylor); 2) the case of Archy Lee, described in Freedom’s Frontier, *supra*, at pp. 76–78; 3) the *Mathews* case, described in *Alleged Abduction Case* (Jan. 21, 1859) San Francisco Bulletin, p. 3, col. 2; 4) the case of Nathaniel Rice, described in *Almost an ‘Archy Case’* (Aug. 20, 1860) San Francisco Bulletin, p. 3, col. 5; 5) the case of John Turner, described in *Attempt*

*to Kidnap* (Jan. 25, 1861) Sacramento Daily Union p. 3, col. 2; and 6) the case of Ada (Edith) Blue, described in Smith, *California’s Last Slave Case* (March 5, 2014) New York Times (as of Jan. 26, 2022).

<sup>441</sup>Taylor, *supra*, at pp. 79–80.

<sup>442</sup>Freedom’s Frontier, *supra*, at pp. 76–78.

<sup>443</sup>Cal. Const. of 1849, art. II, § 1.

<sup>444</sup>Richards, *The California Gold Rush and the Coming of the Civil War* (2007), pp. 73–77.

<sup>445</sup>Freedom’s Frontier, *supra*, at p. 61.

<sup>446</sup>Greg Nokes, *Black Exclusion Laws in Oregon*, Oregon Encyclopedia (as of December 7, 2021).

<sup>447</sup>Freedom’s Frontier, *supra*, at p. 61.

<sup>448</sup>*Ibid.*

<sup>449</sup>State of California, Journal of the Senate, 2nd sess. (1851) 19–21.

<sup>450</sup>*Ibid.*

<sup>451</sup>Freedom’s Frontier, *supra*, at pp. 61–63.

<sup>452</sup>An Act Regulating Marriages, April 22, 1850, ch. 140, § 3, Cal. Stat., at 424.

<sup>453</sup>An Act extending the Privileges of the Homestead Law to certain Persons, and to Regulate the Creation of the Same, March 18, 1860, ch. 120, § 2, Cal. Stats., at 87–88.

<sup>454</sup>Smith, *Dred Scott on the Pacific: African Americans, Citizenship, and Subjecthood in the North American West* (Spring 2018) 100 S. California Hist. Q. 50 (Dred Scott on the Pacific).

<sup>455</sup>Lapp, *supra*, at pp. 196–197.

<sup>456</sup>*Id.* at pp. 239–245.

<sup>457</sup>Dred Scott on the Pacific, *supra*, at p. 46.

<sup>458</sup>Forever Free, *supra*, at pp. 30–31.

<sup>459</sup>McPherson, *supra*, at pp. 145–149.

<sup>460</sup>Forever Free, *supra*, at pp. 30–32.

<sup>461</sup>McPherson, *supra*, at pp. 56–57.

<sup>462</sup>*Ibid.*

<sup>463</sup>Kendi, *supra*, at pp. 179–180.

<sup>464</sup>*Id.* at pp. 203–204.

<sup>465</sup>*Ibid.*

<sup>466</sup>*Id.* at p. 203.

<sup>467</sup>Baptist, *supra*, at p. 377.

<sup>468</sup>Jones, *Birthright Citizens: A History of Race and Rights in Antebellum America* (2018), p. 1 (Jones).

<sup>469</sup>*Id.* at pp. 1, 9–10, 12–13.

<sup>470</sup>*Id.* at p. 14.

<sup>471</sup>Kendi, *supra*, at p. 212.

<sup>472</sup>*Id.* at p. 214.

<sup>473</sup>Baptist, *supra*, at pp. 389–390.

<sup>474</sup>Foner, *The Fiery Trial: Abraham Lincoln and American Slavery* (2010), pp. 161–162 (Fiery Trial).

<sup>475</sup>*Constitution of the Confederate States*, March 11, 1861, Article I, section 9, clause 4 (as of Apr. 25, 2022).

<sup>476</sup>*Id.* at Article IV, section 3, clause 3.

<sup>477</sup>Alexander H. Stephens, ‘Cornerstone’ Speech, March 21, 1861 <> (as of Apr. 25, 2022).

<sup>478</sup>Levine, *Confederate Emancipation: Southern Plans to Free and Arm Slaves During the Civil War* (2006), pp. 26–36 (Levine).

<sup>479</sup>*Id.* at pp. 40–49.

<sup>480</sup>*Letter from Howell Cobb to James A. Seddon*, January 1, 1865, Encyclopedia Virginia (as of Apr. 25, 2022).

<sup>481</sup>Martinez, *Black Confederates* (April 23, 2021) Encyclopedia Virginia (as of March 15, 2022).

<sup>482</sup>Forever Free, *supra*, at pp. 42–44.

<sup>483</sup>Berlin, *Who Freed the Slaves?: Emancipation and its Meaning*, in *Union and Emancipation: Essays on Politics and Race in the Civil War Era*, edited by David W. Blight and Brooks D. Simpson (1997), p. 111 (*Who Freed the Slaves?*).

<sup>484</sup>Woodward, *Marching Masters: Slavery, Race, and the Confederate Army During the Civil War* (2014), p. 107.

<sup>485</sup>*Who Freed the Slaves?*, *supra*, at p. 111.

<sup>486</sup>Army Engineer to the Headquarters of the Department of the South (Apr. 3, 1863), cited in Berlin, Reidy & Rowlands, eds., *Freedom: A documentary History of Emancipation, 1861–1867*, Series II: *The Black Military Experience* (1982) p. 56.

<sup>487</sup> [Confiscation Acts](#), Mr. Lincoln and Freedom: An American History Project of the Lehrman Institute (as of March 15, 2022) ([Confiscation Acts](#)).

<sup>488</sup> *Ibid.*

<sup>489</sup> Weil and Blanco, *supra*.

<sup>490</sup> *Ibid.*

<sup>491</sup> [Who Freed the Slaves?](#), *supra*, at p. 117.

<sup>492</sup> *Ibid.*

<sup>493</sup> Forever Free, *supra*, at p. 48.

<sup>494</sup> [Emancipation Proclamation](#), Jan 1. 1863 (as of Apr. 25, 2022).

<sup>495</sup> Forever Free, *supra*, at p. 51.

<sup>496</sup> *Id.* at p. 50.

<sup>497</sup> [Militia Act of 1862](#), 12 Stat. at 597–600 (as of Apr. 25, 2022).

<sup>498</sup> Forever Free, *supra*, at p. 52.

<sup>499</sup> *Ibid.*

<sup>500</sup> Mouser, [The United States Colored Troops \(1863-1865\)](#) (July 22, 2017) BlackPast.org. (as of Jan. 26, 2022) (Mouser).

<sup>501</sup> Mintz, [Historical Context: Black Soldiers in the Civil War](#), Gilder Lehrman Institute of American History (as of Jan. 26, 2022) ([Black Soldiers in the Civil War](#)).

<sup>502</sup> [Black Soldiers in the Civil War](#), *supra*.

<sup>503</sup> Mouser, *supra*.

<sup>504</sup> Hanna, African American Recipients of the Medal of Honor: A Biographical Dictionary, Civil War through Vietnam War (2002), p. 10 (Hanna).

<sup>505</sup> [Black Soldiers in the US Military During the Civil War](#) (Sept. 1, 2017) National Archives (as of Jan. 26, 2022) (National Archives).

<sup>506</sup> [Black Soldiers in the Civil War](#), *supra*.

<sup>507</sup> *Ibid.*

<sup>508</sup> *Ibid.*

<sup>509</sup> National Archives, *supra*.

<sup>510</sup> *Ibid.*

<sup>511</sup> Douglas to Robert Hamilton (June 9, 1863) quoted in The Black Abolitionist Papers, Volume V, The United States, 1859–1865, edited by C. Peter Ripley (1992), p. 212.

<sup>512</sup> *Id.* at p. 213.

<sup>513</sup> [Black Soldiers in the Civil War](#), *supra*.

<sup>514</sup> *Ibid.*

<sup>515</sup> Hanna, *supra*, at pp. 22–25.

<sup>516</sup> *Id.* at p. vii.

<sup>517</sup> Forever Free, *supra*, at p. 53.

<sup>518</sup> Lincoln, [Order by the President](#), July 30, 1863, Freedmen and Southern Society Project (as of Apr. 25, 2022).

<sup>519</sup> [The Fort Pillow Massacre, 1864: A Spotlight on a Primary Source](#), Gilder Lehrman Institute of American History (as of Jan. 26, 2022) ([Fort Pillow](#)).

<sup>520</sup> *Ibid.*

<sup>521</sup> *Ibid.*

<sup>522</sup> [The Historical Legacy of Juneteenth](#) (June 19, 2019) National Museum of African American History and Culture, Smithsonian Institution (as of Jan. 26, 2022) ([Juneteenth](#)).

<sup>523</sup> *Ibid.*

<sup>524</sup> Kolchin, *supra*, at p. 207.

<sup>525</sup> US Constitution, Amdt. 13, section 1, clause 1.

<sup>526</sup> US Constitution, Amdt. 13, section 2, clause 1.

<sup>527</sup> Greene and McAward, [A Common Interpretation: The Thirteenth Amendment](#) (Dec. 6, 2016) National Constitution Center (as of March 11, 2022).

<sup>528</sup> Forever Free, *supra*, at pp. xix–xx.

<sup>529</sup> *Id.* at pp. 61–63.

<sup>530</sup> *Id.* at pp. 79–80,

<sup>531</sup> *Id.* at pp. 78–79.

<sup>532</sup> *Id.* at pp. 79–80, 109–110.

<sup>533</sup> Petrella and Loggins, [“This is a Country for White Men”: White Supremacy and U.S. Politics](#) (Jan. 5, 2017) Black Perspectives, African American Intellectual History Society (as of March 15, 2022).

<sup>534</sup> Forever Free, *supra*, at pp. 107–113, 116–117, 145–146.

<sup>535</sup> *Id.* at pp. 113–122.

<sup>536</sup> *Id.* at pp. 111–115.

<sup>537</sup> *Id.* at pp. 111–113.

<sup>538</sup> *Id.* at pp. 113–115, 142.

<sup>539</sup> *Id.* at pp. 82–83, 91.

<sup>540</sup> *Id.* at pp. 88–89.

<sup>541</sup> *Id.* at pp. 83–84.

<sup>542</sup> *Id.* at pp. 89–90.

<sup>543</sup> *Id.* at pp. 95–96.

<sup>544</sup> *Id.* at pp. 95–96.

<sup>545</sup> *Id.* at pp. 112, 141–42.

<sup>546</sup> [Freedmen’s Bureau Bill](#) (Mar. 3, 1865) Chap. XC, § 2, 13 Stat. 507.

<sup>547</sup> Reich, A Working People, *supra*, p. 13.

<sup>548</sup> See Foner, Reconstruction: America’s Unfinished Revolution, 1863–1877 (2011) pp. 68–69; Gates, Jr., [The Truth Behind “40 Acres and a Mule”](#) African Am. Hist. Blog (2013) (as of Apr. 10, 2022); see also Reich, A Working People, *supra*, p. 11 (discussing freedmen’s view of land ownership as key to economic autonomy).

<sup>549</sup> Baradaran, The Color of Money, *supra*, p. 16, citing Fleming, [“Forty Acres and a Mule”](#) (1906) 182 North Am. Rev. 721, 729.

<sup>550</sup> Reich, A Working People: A History of African American Workers Since Emancipation (2013) pp. 11–12.

<sup>551</sup> *Id.* at p. 12.

<sup>552</sup> *Id.* at pp. 13–15.

<sup>553</sup> *Id.* at pp. 141–42.

<sup>554</sup> *Id.* at p. 12.

<sup>555</sup> Baradaran, The Color of Money, *supra*, p. 19; Reich, A Working People, *supra*, p. 10

<sup>556</sup> Baradaran, The Color of Money, *supra*, p. 19.

<sup>557</sup> Baradaran, The Color of Money, *supra*, p. 17.

<sup>558</sup> Reich, A Working People, *supra*, p. 15.

<sup>559</sup> *Id.* at pp. 13–15; see also Baradaran, The Color of Money, *supra*, p. 18 (discussing President Johnson’s view that capitalism, free trade, and the law of supply and demand would suffice to allow freedmen to secure remuneration and acquire land without the help of the state, even as the government was aiding private

industry and after the government had given away land to white settlers).

<sup>560</sup> *Id.* at pp. 113–115.

<sup>561</sup> *Ibid.*

<sup>562</sup> An Act to Protect all Persons in the United States in their Civil Rights, and furnish the Means of their Vindication (the Civil Rights Act of 1866), US Statutes, Chapter 31, sec. 1

<sup>563</sup> Forever Free, *supra*, at pp. 117–118.

<sup>564</sup> US Constitution, Amdt. 14, section 1.

<sup>565</sup> Jones, *supra*, at pp. 5, 14.

<sup>566</sup> Pildes and Smith, [Common Interpretation: The Fifteenth Amendment](#), National Constitution Center (as of March 15, 2022) (*Common Interpretation*).

<sup>567</sup> US Constitution, Amdt. 15, section 1.

<sup>568</sup> *Common Interpretation, supra*.

<sup>569</sup> US Constitution, Amdt. 15, section 2.

<sup>570</sup> Freedom's Frontier, *supra*, at pp. 209–214.

<sup>571</sup> Lapp, *supra*, at pp. 206–209.

<sup>572</sup> Freedom's Frontier, *supra*, at pp. 177–178.

<sup>573</sup> *Id.* at pp. 207–208.

<sup>574</sup> *Id.* at pp. 207–213.

<sup>575</sup> *Id.* at pp. 210–213.

<sup>576</sup> *Id.* at p. 210.

<sup>577</sup> *Id.* at p. 213.

<sup>578</sup> *Ibid.*

<sup>579</sup> Waite, [Early California lawmakers also preached #resistance—but against immigration](#) (Aug. 3, 2018) Los Angeles Times (as of Jan. 26, 2022).

<sup>580</sup> Cottrell, [It took 92 years for California to ratify the 15th Amendment](#) (June 26, 2020) The Union (as of March 15, 2022).

<sup>581</sup> *Ward v. Flood*, 48 Cal. 36 (1874).

<sup>582</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

<sup>583</sup> Forever Free, *supra*, at pp. 171–177, 194–197.

<sup>584</sup> Forever Free, *supra*, at pp. 195–197, 200–203.

<sup>585</sup> *Id.* at pp. 190–193, 197.

<sup>586</sup> *Id.* at p. 198.

<sup>587</sup> *Id.* at pp. 197–198.

<sup>588</sup> *Ibid.*

<sup>589</sup> *Id.* at p. 198.

<sup>590</sup> *Id.* at p. 198–199.

<sup>591</sup> *Ibid.*

<sup>592</sup> *Id.* at p. 194.

<sup>593</sup> *Ibid.* The key cases in the 1870s were the *Slaughter-House Cases*, 83 U.S. 36 (1873) and *United States v. Cruikshank*, 92 U.S. 542 (1876).

<sup>594</sup> *Civil Rights Cases*, 109 U.S. 3 (1883).

<sup>595</sup> An Act to protect all Citizens in their Civil and Legal Rights, 18 US Stat. 335–337.

<sup>596</sup> *Civil Rights Cases*, 109 U.S. 3 (1883).

<sup>597</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

<sup>598</sup> Janney, [The Lost Cause](#) (Feb. 24, 2022) Encyclopedia Virginia (as of March 15, 2022) (Janney).

<sup>599</sup> *Ibid.*

<sup>600</sup> *Ibid.*

<sup>601</sup> [Whose Heritage? Public Symbols of the Confederacy](#) (February 1, 2019) Southern Poverty Law Center ([as of Jan. 26, 2022](#)) (*Whose Heritage?*).

<sup>602</sup> *Ibid.*

<sup>603</sup> *Ibid.*

<sup>604</sup> *Ibid.*

<sup>605</sup> Boyd, [Gone with the Wind and the damaging effect of Hollywood racism](#) (June 13, 2020) The Guardian (as of March 15, 2022) (Boyd).

<sup>606</sup> Forever Free, *supra*, at pp. 217–219 (photo essay by Joshua Brown).

<sup>607</sup> Boyd, *supra*.

<sup>608</sup> Knight, [Commentary: A Fitting End to the Last Confederate Monument in Southern California](#) (July 8, 2020) Los Angeles Times (as of Jan. 26, 2022).

<sup>609</sup> Waite, [The Struggle over Slavery Was Not Confined to the South, LA Has a Confederate Memorial Problem Too](#) (August 4, 2017) Los Angeles Times (as of Jan. 26, 2022).