

Civil Rights for African Americans in Early California

Discrimination and Activism for African Americans 1848-1865

OVERVIEW

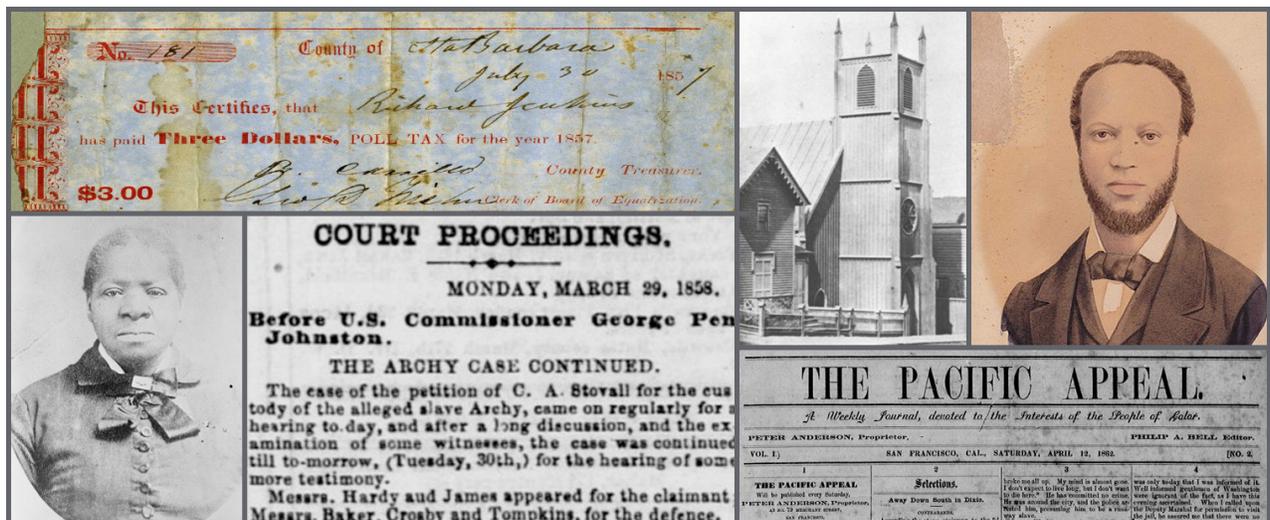
You may notice that this lesson uses the terms “enslaved persons,” “enslavement,” and “enslavers.” The decision to use these words was deliberate. Referring to people as “enslaved” honors their humanity and reminds us that slavery was neither a choice nor an identity but a condition that was forced upon them.

In Part I-A, students learn about California state’s discriminatory policies against African Americans, think about various ways to take action against the state’s prejudicial laws and discuss which method would be the best response to affect change for a specific policy.

In Part I-B, students learn about some of the actual responses by California African Americans to the state’s government policies, discover if the actions resulted in change and explore unresolved issues about the policy.

In Part II, students research current government policies that discriminate against African Americans and research the ways in which African Americans are fighting for justice and equality today.

In Part III, students look at their own experiences with discrimination and explore methods of action to combat discrimination in their own lives.



Civil Rights for African Americans in Early California

California Constitution, 1849 ARTICLE I. Declaration of Rights

Sec. 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property: and pursuing and obtaining safety and happiness.

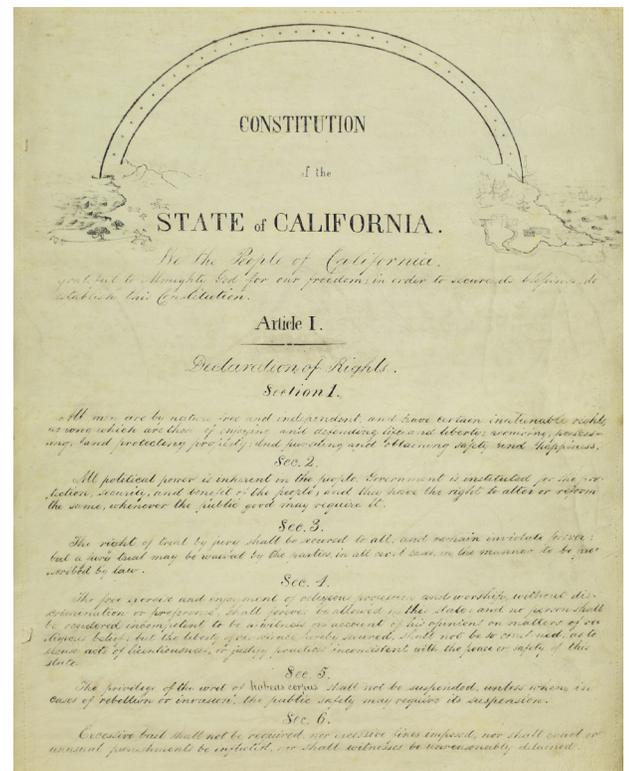
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The 1849 California Constitution guaranteed individual rights to all men and established that government is created for the protection of the people. Despite this, the first California state legislature passed a series of bills into laws that limited the rights of African Americans, Mexican Americans, Native Americans, and Chinese. Together, these bills formed California state government policy (planned action) towards anyone who wasn't white, denying them equal protection of the law. Today, we would define government policies that restrict a specific group of people as discriminatory.

With a Constitutional right to “reform” the government when the “public good may require it,” non-whites and their allies fought against discriminatory policies in California from 1848–1865. They organized, educated, protested, and legally challenged California’s discriminatory policies. African American activists for equal rights affected change in some instances. However, it would take a Civil War, amendments to the United States Constitution and a new California Constitution in 1879 to end enslavement and provide constitutional rights for African Americans. Even still, the federal policies did not end government discrimination. Generations throughout California history have battled prejudicial state and federal laws, a fight that continues still today.

Discrimination was not limited to government policies. Some individuals, private businesses, and organizations discriminated against African American and other non-whites. Even though changes were enacted to ban racist policies in government institutions, the abolishment of those policies did not alter prejudices in American society. They were, however, a start.

Early California government policies targeted Chinese, Mexican American, African American, and Native American populations. This lesson, however, will focus on the discriminatory policies by the state government towards African Americans in early California, the actions they took to fight for equality, and how Black Americans are still battling for equal rights today.



1849 California Constitution, adopted in Monterey, California by California's first Constitutional Convention. Courtesy of the California State Archives.

Civil Rights for African Americans in Early California

BACKGROUND

African Americans in California

More than 1,000 Native American tribes were the first inhabitants of the area now called California. In the 1700s, Spanish military expeditions brought sailors, soldiers, and their families to California many who were of African descent (ancestry) or multi-racial (parentage from several races). In 1781, forty-six settlers from Spain and Mexico arrived and founded Los Angeles, twenty-six of whom were of African descent or Mestizo (African/Spanish/Indigenous heritage). By 1791, 20% of California's population had some African roots. The Spanish rancho system survived through forced Native labor and enslavement of African people. When California became Mexican territory in 1823, enslavement was outlawed, and Afro-Latinos (mixed race African and Latino) held important political and social positions in the state.

An expanding United States fought a war with Mexico from 1846–1848 over the California, New Mexico, and Arizona territories. The United States won, and the new California Territory maintained the enslavement-free status of Mexican California. However, southern enslavers still brought enslaved African Americans to California during the Gold Rush of 1848.

By 1849, California had established a civilian governor who called a Constitutional Convention to create an official government for California. Delegates met in Monterey, California, drafted and approved the California Constitution. It was sent to California voters (white men at the time) who approved it at the end of the year. In 1850, California was admitted into the U.S. as an enslavement-free state. Many enslaved African Americans elsewhere escaped enslavement to join California's emancipated African community.

1. What was the African American experience in California prior to statehood?

California's official enslavement-free status and the state constitution's guarantee that all men have the inalienable rights of life, liberty, property, safety, and happiness, should have been promising for African Americans in 1850. But the California Constitution was a contradiction for African Americans and other non-whites. The California Constitution banned (forbid) enslavement in the state but at the same time, only white men were allowed to vote denying African American suffrage (the right to vote).

When California's state legislature met for its first session in 1850, it passed discriminatory laws that further denied African Americans basic rights. The California Constitution and later laws reflected racial attitudes at the time. Some Californians wanted to ban African Americans coming to the state, others looked to abolish (get rid of) enslavement and a number wanted to offer African Americans some rights. Racist views toward Mexican and Native Americans as well as Chinese immigrants also impacted African American rights. If the state allowed one group of color a specific right, it would most likely lead to other groups demanding similar rights.

2. How did the California Constitution of 1849 and early laws impact California African Americans?

The 1850 U.S. Census records show that approximately 962 African Americans lived in California. That number would grow to 4,086 by 1860. The community of African American men, women and their allies would challenge California's prejudicial (biased) California state Constitutional laws and state legislative laws.

Civil Rights for African Americans in Early California

PART I:

Discriminatory Policies by California State towards African Americans, 1848–1861

The following activity focuses on the prejudicial policies that formed due to the California Constitution of 1849 and discriminatory laws passed by the first California state legislature towards African Americans. It asks you to evaluate the best mode of action in response to these unequal policies, learn about the actions some African Americans took to gain equal rights, and assess change and unresolved issues for each of the discriminatory policies.

As you read, you may use this guide take notes on the policy, response, and result—any change and/or unresolved issue(s). You can use the questions with the reading to help you. While there were other discriminatory government policies, this lesson focuses on:

1) Enslavement 2) Testimony in Courts 3) Suffrage and 4) Education.

POLICY (government discriminatory policy)	RESPONSE (Action taken by African Americans) (Type of Activism)	RESULT (Change? Unresolved Issues?)

Civil Rights for African Americans in Early California

PART I-A: POLICY – AFRICAN AMERICAN ENSLAVEMENT

California Constitution, 1849 Article I: Declaration of Rights

Sec. 18. Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

<https://tile.loc.gov/storage-services//service/gdc/calbk/196.pdf>

In 1850, California was admitted to the United States as an enslavement-free state confirming the 1849 California Constitution. But questions remained about enslaved people. Emancipated (freed) African Americans were able to come to California, but what about those enslaved who already lived in California—were they now free?

In the same year of California statehood, the U.S. Congress issued the Fugitive Slave Law of 1850 requiring any enslaved person who escaped (fugitive) be returned to the enslaver (slave owner). The law required all states to assist in tracking down fugitive enslaved persons and criminal penalties to anyone helping a fugitive. This requirement was for states with or without legal enslavement. In addition, the federal law removed a fugitive's right to a trial to challenge the law. What did this mean for California? As California was an enslavement-free state, the California legislature enacted a law in 1852 to clarify its policy on fugitive enslaved persons.

An Act Respecting Fugitive from Labor and Slaves brought to this State prior to her admission into the Unions passed April 15, 1852

Section 1: When a person held to labor in any State or Territory of the United States under the laws thereof, shall escape into this State...[a judge can issue] warrant for removing the said fugitive from labor, to the State or Territory from which he or she fled..."

Section 4: Any person or persons held to labor or service in any State or Territory of the United States, ... and who were brought or introduced within the limits of this state previous to the admission of this State as one of the United States of America, and who shall refuse to return to the State or Territory where he, she, or they owed such labor or service, ... shall be held and deemed fugitive from labor..."

<https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1852/1852.PDF#page=13>

The California Fugitive Slave Law of 1852 confirmed the federal law requiring escaped enslaved persons entering California to be returned to their enslavers. In addition, it stated that the enslaved persons who lived in California prior to statehood (and enslavement-free status) were not free; they were still bound by the labor agreements of the State or Territory from where they lived prior to coming to California. This meant that people who had been living as emancipated (freed) African Americans prior to 1850 would be deported (sent out of state) and re-enslaved if their enslavers requested them back.

1. What type of action do you think was taken in response to the policy?
2. Why do you think that action was chosen?

ORGANIZE

(form organizations to support cause; existing organizations—i.e. Churches become organizing channels)

EDUCATE

(through media - newspapers; rallies for the public; organizations)

PROTEST

(defied the law; physically: marches, sit-ins; economically: boycott, strike; politically: petitions, lobbying for legislation)

LEGAL CHALLENGE

(court cases)

Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO ENSLAVEMENT

Following are some actions taken by African Americans in response to the California state government's policy on enslavement. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

Carter Perkins, Robert Perkins, and Sandy Jones were brought to California in 1849 as enslaved persons by C.S. Perkins, an enslaver from Mississippi. C.S. Perkins left California to return to Mississippi later that year, leaving the Perkins brothers and Jones with a friend. C.S. Perkins said he would grant them freedom if they worked for him for six more months. They did and in 1851, the Perkins brother and Jones started their own business as emancipated (freed) African Americans. In 1852, California passed the Fugitive Slave Law and C.S. Perkins called for their arrest claiming them fugitives. The Perkins brothers and Jones took the issue to the California State Supreme Court who ruled that the California State Fugitive Slave Act required that they be returned to C.S. Perkins in Mississippi where enslavement was legal.

424 SUPREME COURT OF CALIFORNIA.

In the Matter of CARTER PERKINS and ROBERT PERKINS.

HABEAS CORPUS.

By the Act of April 20, 1852, the power of hearing and determining writs of habeas corpus is vested in the Judge of every Court of record in the State. The final determination is not that of a Court, but the simple order of a Judge, and is not appealable from or subject to review.

Transcript of the 1852 California State Supreme Court ruling, *In Re Perkins*, on the Carter and Robert Perkins' enslavement and fugitive status. Courtesy of Caselaw Access Project.

COURT PROCEEDINGS.
MONDAY, MARCH 29, 1854.
Before U.S. Commissioner George Pen Johnston.
THE ARCHY CASE CONTINUED.
The case of the petition of C. A. Stovall for the custody of the alleged slave Archy, came on regularly for a hearing to-day, and after a long discussion, and the examination of some witnesses, the case was continued till to-morrow, (Tuesday, 30th,) for the hearing of some more testimony.
Messrs. Hardy and James appeared for the claimant; Messrs. Baker, Crosby and Tompkins, for the defence.
Archy was brought into the court by the U. S. Marshal. The court room was filled by a large audience of persons interested in the case.
Mr. Hardy said he should apply for a continuance. He wished to obtain some important evidence from Mississippi, and he had sent for it; and he would ask the Court to grant a continuance till the 20th May or the 1st of June, to allow that testimony to be received. In support of his motion for a continuance, he offered the following:

Advertisement from *Columbia Gazette*, September 2, 1854, submitted by Stephen Spencer Hill to sell his property. Courtesy of Library of Congress.

On a trip, Wood Tucker brought Stephen Spencer Hill as his enslaved person from Arkansas to California in 1849. Before Tucker returned to Arkansas in 1853, Hill purchased his freedom. Hill then filed a claim for Tucker's land in California; he worked the land and became very successful. In 1854, Owen R. Rozier, as a representative of Wood Tucker, claimed that Hill was still enslaved by Tucker. Hill had to appear in court, where Rozier submitted a letter from Tucker stating that Hill was still Tucker's property. Since Hill did not have paperwork proving his emancipation (freedom) and had arrived before California was an enslavement-free state, the California state courts ruled that he must be returned to Tucker in Arkansas. Rather than be re-enslaved, Hill escaped and lost all his property in California.

Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO ENSLAVEMENT (CONTINUED)

Following are some actions taken by African Americans in response to the California state government's policy on enslavement. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

Robert Smith brought Bidy Mason and her family as enslaved persons to Utah Territory in 1851 and then to California which was an enslavement-free state. When Smith wanted to bring Mason and her family with him to Texas, Mason worked with the white Los Angeles sheriff and African American rancher Robert Owens to bring her case before the court in 1856. Despite the Fugitive Slave Act, Judge Benjamin Hayes, a Southerner, ruled that Smith had no property rights over Mason and her children since they had arrived in California after it was declared an enslavement-free state. Bidy Mason won her freedom and the freedom of her children and grandchildren. This California State court ruling confirmed California's 1850 enslavement-free status and challenged the Fugitive Slave Law.



Photograph of Bidy Mason who fought in California courts for her right to freedom under California's enslavement-free state status. Courtesy of Security Pacific National Bank Photo Collection / Los Angeles Public Library.

Archy Lee was enslaved by Charles Stovall's father. Stovall came to Sacramento, California in 1857 with Lee whom he hired out to work for others. Lee ran away, claiming his freedom under California's enslavement-free status (1850). However, Lee was arrested as a "fugitive" under California's 1852 Fugitive Slave law. Lee sued for his freedom in court with legal aid from Black and white abolitionists. The Sacramento County court ruled in Lee's favor. Stovall appealed the case, but the court again declared Lee free. Stovall then appealed the case to the California Supreme Court which ruled that if an enslaver was in California temporarily, they kept their enslaved property. Lee was to return to Mississippi with Stovall. Lee escaped but was arrested again. Since multiple courts in California arrived at different decisions, a United States federal court heard the case and ruled in Lee's favor.

“ARCHY.”
TO THE FRIENDS
.....OF THE.....
CONSTITUTION AND LAWS.

THE COMMITTEE APPOINTED BY THE
Colored People having expended a large amount, and incurred heavy obligations in prosecuting and defending the case in the Courts of Sacramento, Stockton and San Francisco, and believing the principles to be vindicated are those which should interest all lovers of right and justice, independent of complexion, respectfully solicit contributions for this object, which will be faithfully appropriated, if left with
m20-3t E. J. JOHNSON, 184 Clay street.

1858 advertisement in the *Mirror of the Times* by the Executive Committee of the California Colored Convention providing funding for Archy Lee's court case fighting his arrest for violating the Fugitive Slave Act. Courtesy of ACLU of Northern California, "Gold Chains: The Hidden History of Slavery in California."

Civil Rights for African Americans in Early California

VOICES RESPOND

“I don’t understand what you are speaking of,” he said to the judge when asked in legal language whether he wanted to go back to slavery.

“But I want it to come out right: I don’t want to go back to Mississippi.”

Testimony of Archy Lee in 1858 to the judge about his fight against his arrest for being a fugitive enslaved person in the free state of California. Courtesy of the California State Library Foundation Bulletin.

Our Constitution prohibits slavery and involuntary servitude, unless for the punishment of crimes. And this only engrafted a principle long established by the Mexican law.

If it be urged that the Constitution was inoperative till after the admission of the State into the Union, then the answer is, that the Mexican law controlled up to that period. But the sovereignty of the State was complete by the adoption of the constitution; this does not depend upon its recognition by other

If a slave is brought into a free State by his master, or by his consent, he becomes free, unless the State has provided for his temporary sojourn; and he cannot be called upon to return; 2

Excerpt of petition (argument) to California State Supreme Court by lawyers for Carter and Robert Perkins that they were free and not fugitive slaves from transcript of the 1852 California State Supreme Court ruling *In Re Perkins*. Courtesy of Caselaw Access Project.

RESULT

While California was an enslavement-free state, the United States government still recognized enslavement. The fight for freedom from enslavement would not be resolved until 1865 with the end of the Civil War and passage of the 13th Amendment banning enslavement in the United States. Even with the federal ban on enslavement, and the 14th Amendment requiring states to provide equal protection for African Americans, government policies would still oppress African Americans as well as other non-whites. States and cities issued Jim Crow laws designed to segregate Black people from white and limit African American rights resulting in a different form of forced domination by white Americans over African Americans.

1. Did the actions/responses by African Americans affect change? Why or why not?
2. In 1865, what issues still remained for the right to be an emancipated African American in California?

Civil Rights for African Americans in Early California

PART I-A: POLICY – RACIAL TESTIMONY

**An Act Concerning Crimes and Punishments passed April 16, 1850
Third Division: Who May Be a Witness in Criminal Cases § 14**

“No black or mulatto person, or Indian, shall be allowed to give evidence in favor of, or against a white man. Every person who shall have one eighth part or more of Negro blood shall be deemed a mulatto ...”

First Session of the California State Legislature: Statutes of California. Ch. 99 § 14 p. 229

<https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1850/1850.pdf>

The state Legislature is made up of the state Assembly and House with elected representatives of registered California voters. They make the laws for the state of California which also must be approved by the state governor. The first sessions of the California state legislature set up guidelines for the state courts and trials. They limited racial testimony, testimony by those who were non-white. It was approved by the California state governor and became law.

1. What type of action do you think was taken in response to the policy?
2. Why do you think that action was chosen?

ORGANIZE

(form organizations to support cause; existing organizations— i.e. Churches become organizing channels)

EDUCATE

(through media - newspapers; rallies for the public; organizations)

PROTEST

(defied the law; physically: marches, sit-ins; economically: boycott, strike; politically: petitions, lobbying for legislation)

LEGAL CHALLENGE

(court cases)

Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO RACIAL TESTIMONY

Following are some actions taken by African Americans in response to the California state government's policy on racial testimony. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

The Franchise League was formed in San Francisco in 1852 by African American activists David W. Ruggles and Mary Ellen Pleasant. The League focused on winning the rights to vote and to testify in California courts. They petitioned the California state legislature to repeal the testimony law and allow African Americans to give testimony in cases involving white men. The legislature rejected the petition. The Franchise League continued to petition the California state legislature to change the law without success.

HOUSE OF ASSEMBLY.

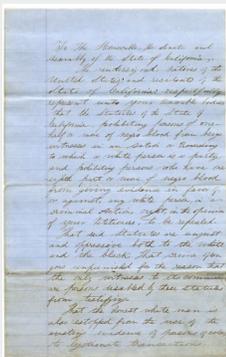
MONDAY, March 22, 1852.

Mr. Canney presented a petition from free negroes of San Francisco, praying a change in the law, to authorize them to give testimony against white men.

Mr. Hammond offered the following resolution:

Resolved, That the House, having heard the petition read, do decline to receive or entertain any petition upon such subject from such source.

Journal of the California State Legislative Assembly in 1852 regarding a petition put forth by Black Activists like the Franchise League to “authorize” black testimony in California courts. Courtesy of California State Assembly Office of the Chief Clerk.



An appeal was sent out to hold a California Colored Convention in 1855 “for the purpose of devising the most judicious and effectual ways and means to obtain our inalienable rights and privileges in California.” It resulted in the First California Colored Convention in 1855. The main agenda was to organize African Americans in California and specifically to fight for the right to testify for black people in California. The Convention organized its members to circulate petitions in their counties to secure racial testimony in the California courts.

Petition for legal recognition of Black Californians by the California Colored Convention to the California Senate and State Assembly, calling for repeal of racial testimony law that banned African Americans from testifying in courts. Courtesy of the California Historical Society.

Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO RACIAL TESTIMONY (CONTINUED)

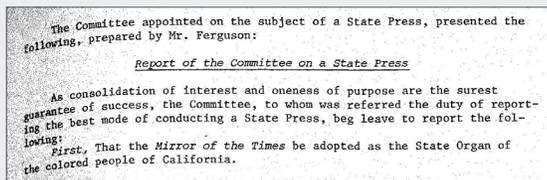
Following are some actions taken by African Americans in response to the California state government's policy on racial testimony. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

African American activists took their petitions to repeal the testimony law banning African Americans from testifying against whites to the newspapers. Mifflin Gibbs, Jonas Townsend, and W.H. Newby, all members of the California Colored Convention, printed a resolution in the *Alta California*, the leading daily newspaper in California. By reaching out to a non-Black newspaper, the activists looked to inform white and other non-white Californians of their fight to win the right to testify in California courts (as well as the right to franchise – vote). They continued to submit resolutions to the *Alta California* and print advertisements throughout the years in order to publicize the discriminatory testimony law as well as other prejudicial laws.



The Daily Alta, California's leading newspaper in the mid-1850's, was run by white Californians, but African Americans submitted articles and advertisements which the newspaper printed. Masthead from Jan. 1, 1851 courtesy of California Digital Newspaper Collection, Center for Bibliographic Studies and Research, University of California, Riverside.



Report of the Second Annual Convention of the Colored Citizens in the state of California, 1856, establishing a newspaper, *The Mirror of the Times*, to be the state newspaper of the colored people of California. Courtesy of Colored Conventions Project, Center for Black Digital Research at Penn State University.

The Second California Colored Convention in 1856 established a black weekly newspaper, the *Mirror of the Times*, to promote rights for the African American community. The main goal was the repeal of the racial testimony law. The newspaper printed court cases where Black testimony was not allowed highlighting those cases where the lack of such testimony led to a white person going free for crimes committed against African Americans. The *Mirror* became an important source of rallying African Americans living in California to challenge testimony laws.

Civil Rights for African Americans in Early California

VOICES RESPOND

“The undersigned, Natives of the United States; and residents of the State of California; respectfully represent ... that the Statutes of the State of California, prohibiting persons of one-half or more of negro blood from being witnesses in an Action or Proceeding to which a white person is a party, and prohibiting persons who have one-eighth part or more of negro blood from giving evidence in favor of, or against, any white person, in a criminal Action, ought, in the opinion of your Petitioners, to be repealed. ... That said Statutes are unjust and oppressive both to the white and the black; That crime often goes unpunished for the reason that the only witnesses to its commission are persons disabled by these statutes from testifying.”

A transcript of a *Petition for Legal Recognition of Black Californians* to the California Senate and State Assembly, calling for repeal of California state laws that prohibit African Americans from testifying or acting as witnesses in court cases involving white persons. Courtesy of the California Historical Society.

Gentlemen of the Convention :—

For the fourth time the colored citizens of this State are assembled in Convention for the purpose of obtaining JUSTICE, and the consideration of subjects tending to our general elevation. The principal object which created the preceding conventions, was the admission of our testimony in the courts of justice in this State. This has been happily accomplished by our untiring efforts, and the generous and noble co-operation of the friends of justice in the Legislature. After a struggle of eight years, and in January, in the year 1863, the statutes of California were cleansed from that foul blot which had entirely obliterated from their face Equity and Justice. The principal objects of

Proceedings of the California State Convention of the Colored Citizens in 1865 about winning the right of racial testimony in California courts. Courtesy of the Colored Conventions Project, Center for Black Digital Research at Penn State University.

RESULT

In 1857, the U.S. Supreme Court ruled that enslaved African Americans were not citizens and had no legal rights in court (*Dred Scott v Sanford*). The fight for the elimination of racial testimony laws stopped until 1863 when Richard Perkins introduced bills into the California legislature to repeal the law banning racial testimony. The law passed and African American testimony was allowed in California courts. However, the *Dred Scott* decision allowed state courts to deny African Americans right to a trial because of lack of citizenship. Despite the win for African Americans in securing the right to testify in California courts, Chinese and Native American testimony in California were still not allowed until they were recognized as full citizens in 1924 (Native Americans) and 1947 (Chinese).

1. Did the actions/responses by African Americans affect change? Why or why not?
2. In 1865, what issues still remained for African American's rights in courts in California?

Civil Rights for African Americans in Early California

PART I-A: POLICY – AFRICAN AMERICAN SUFFRAGE (right to vote)

California State Constitution, 1849 Article II: Right of Suffrage

Sec. 1 – Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States, ... of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter may authorized by law ...”
http://www.dircost.unito.it/cs/pdf/18490000_UsaCalifornia_eng.pdf

The California State Constitution of 1849, like other states, had age and residency (living in a place) requirements in order to vote. However, California’s Constitution also only allowed white male citizens suffrage (right to vote).

1. What type of action do you think was taken in response to the policy?
2. Why do you think that action was chosen?

ORGANIZE

(form organizations to support cause; existing organizations— i.e. Churches become organizing channels)

EDUCATE

(through media - newspapers; rallies for the public; organizations)

PROTEST

(defied the law; physically: marches, sit-ins; economically: boycott, strike; politically: petitions, lobbying for legislation)

LEGAL CHALLENGE

(court cases)

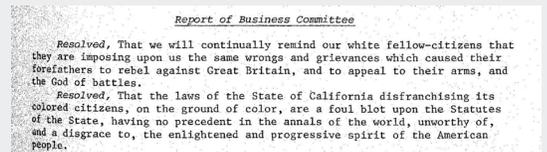
Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO AFRICAN AMERICAN SUFFRAGE

Following are some actions taken by African Americans in response to the California state government's policy on African American suffrage. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

African American activists established suffrage (the right to vote) associations in California such as the Franchise League as early as 1852. Other activists rallied African Americans to form the California Colored Convention. Like their counterparts in the eastern states, African Americans in California held the Conventions in churches to decide how to improve the lives of their community. The Convention first met in 1856 in Sacramento, California. Their goal was to address discriminatory laws against African Americans in California including suffrage (the right to vote). Education was on the agenda as well, but the Executive Committee established at the convention focused mainly on testimony and suffrage.



A resolution from Report of the Second Annual Convention of the Colored Citizens in the state of California, 1856, calling for continual fight against the disenfranchisement (denying the right to vote) of those of color in California. Courtesy of the Colored Conventions Project, Center for Black Digital Research at Penn State University.



A sample California poll tax similar to the one Mifflin Gibbs and John Lester boycotted because they were being taxed without representation – they could not vote for their representatives. Courtesy of Edson Smith Photo Collection/ Courtesy of the Santa Barbara Public Library.

In 1857, Mifflin Gibbs and John Lester of San Francisco protested a poll-tax on the grounds that if they— as African Americans—didn't have the right to vote, they shouldn't have to pay the poll tax. Poll taxes were issued by both California state and its counties on every male inhabitant in the state or county between the ages of 21 and 50. Gibbs and Lester used the long-standing American slogan, "taxation without representation," to boycott the tax. While the tax collector still made them pay the tax, this was one of the first economic protests for equal suffrage.

Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO AFRICAN AMERICAN SUFFRAGE (CONTINUED)

Following are some actions taken by African Americans in response to the California state government's policy on African American suffrage. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

The Mirror of the Times weekly journal of the California Colored Convention changed ownership in 1862. Re-named *The Pacific Appeal*, Philip Alexander Bell, former journalist at abolitionists papers in the Northeast, and Peter Anderson, a delegate of the California Colored Convention, established the San Francisco-based paper. While its goal was to reach the broader interests of the African American community, *The Pacific Appeal* dedicated many articles to securing rights for African Americans. In the first issues and many thereafter, *The Pacific Appeal* addressed suffrage for African Americans in California.



The masthead of the inaugural issue of *The Pacific Appeal*, a newspaper for African Americans in California, April 12, 1862. Courtesy of the California Digital Newspaper Collection, Center for Bibliographic Studies and Research, University of California, Riverside.

...sir, I cannot let this great question of our right to the political franchise pass, without adding a word in behalf of our claim to that right.
I wish, sir, to make a few remarks upon the ground of our appeal to the State Legislature for the concession of our right of suffrage, by an amendment to the State Constitution, so as to secure to us this God given right. The

Reverend Moore addressing the California State Convention of Colored Citizens at the Third Session on October 27th, as reported by *The Elevator*, November 17, 1865. California Digital Newspaper Collection, Center for Bibliographic Studies and Research, University of California, Riverside.

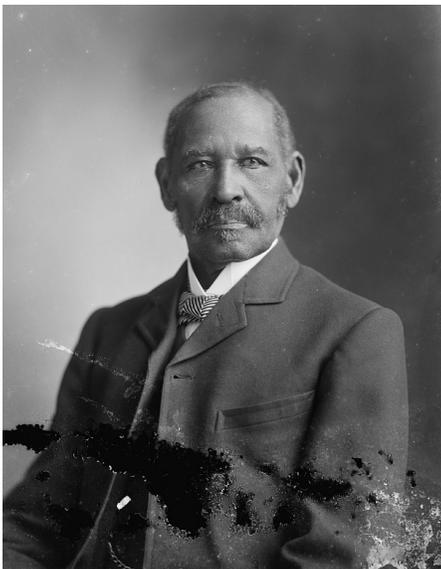
Between 1863 and 1865, three events happened which strengthened African American's push for equality. The Emancipation Proclamation of 1863 called for freeing enslaved people in states which still allowed enslavement. In 1864, the 13th Amendment abolished enslavement. On May 9, 1865, the Civil War officially ended. With these events, the California Colored Convention met in October 1865 and drafted a petition to the California state legislature for African American suffrage. The petition, proposed as Senate Bill 417 to the 16th Session of the California Legislature by Republican Senator John E. Benton, called for amending the California Constitution's suffrage rights to "all male citizens." The bill was read but never discussed.

Civil Rights for African Americans in Early California

VOICES RESPOND

“Whereas, The Constitution of this State denies us the right of suffrage, safeguard of a free people, and Whereas, We believe such a course is not only unjust, proscriptive and inconsistent with the spirit of our Constitution, based, as it is, doctrine that all men are created free and equal; therefore Resolved, That we will use all lawful means in our power to secure the of the provision which deprives us of this right.”

Report of the Second Annual Convention of the Colored Citizens in the state of California, 1856. Courtesy of the Colored Conventions Project, Center for Black Digital Research at Penn State University.



Photograph of Mifflin Wistar Gibbs, member of the California Colored Convention and African American activist. Taken in 1903 in Washington, D.C. by photographer C.M. Bell. Courtesy of the Library of Congress.

“Among the occasions continually occurring demanding protests against injustice was the imposition of the “poll tax.” It was demanded of our firm, and we refused to pay. A sufficient quantity of our goods to pay tax and costs were levied upon, and published for sale, and on what account. I wrote with a fervor as cool as the circumstances would permit, and published a card from a disfranchised oath-denied standpoint, closing with the avowal that the great State of California might annually confiscate our goods, but we would never pay the voters tax.”

Mifflin Gibbs writing in his autobiography, *Shadow and Light*, about his poll-tax protest for suffrage. Courtesy of the National Humanities Center.

RESULT

It would take the Civil War and the passage of the 15th Amendment to the United States Constitution in 1870 which stated the right citizens to vote should not be denied “on account of race, color or previous condition of servitude” to secure the right to vote for African American men in the United States. Suffrage did not extend to women nor Native Americans and Chinese who were—at the time—not considered citizens. Although African American men won suffrage, California politicians passed laws meant to slow down and limit African American suffrage. The Voting Rights Act of 1965 sought to eliminate barriers to voting for all Americans, but obstacles remain.

1. Did the actions/responses by African Americans affect change? Why or why not?
2. In 1865, what issues still remained for the right to African American suffrage in California?

Civil Rights for African Americans in Early California

PART I-A: POLICY – UNEQUAL EDUCATION

In the first few sessions of the California State Legislature (1851 and 1852), bills were passed for common, or public schools. In these laws, there was no reference to race; “children” of the state were to be counted ages four to eighteen to determine education needs. In 1855, that changed. The legislature changed the law to count “white children.” In addition, it added that “white families” could petition to establish a school.

By 1860, the language distinguishing white and non-white schools was blatantly discriminatory. In a concession to African American families who wanted education for their children, the 1864 state legislature permitted non-white parents to request a separate school established for their children in their district.

**An Act
amendatory of and supplementary to, ‘An Act to Establish, Support, and Regulate,
Common Schools and to Repeal former Acts concerning the same’ (1855).
April 28, 1860**

Section 8: “Negroes, Mongolians, and Indians, shall not be admitted into the public schools; ... the Trustees of any district may establish a separate school for the education of Negroes, Mongolians, and Indians, and use the public school funds for the support of the same.”

Chapter CCCXXXIX. Pg. 325.

<https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1860/1860.PDF#page=351>

**An Act
supplementary to and amendatory of the Act of April sixth, eighteen hundred and sixty-three,
entitled an Act to provide the maintenance and supervision of Common Schools”
March 22, 1864**

Section 68: ... provided, that upon the application of the parents of Guardians of ten or more such colored children, made in writing to the Trustees of any district, said Trustees shall establish a separate School for the education of Negroes, Mongolians , and Indians, and use the Public School funds for the support of the same ...”

Chapter CCIX. p. 209

https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1864/1863_64.pdf#page=293

1. What type of action do you think was taken in response to the policy?
2. Why do you think that action was chosen?

ORGANIZE

(form organizations to support cause; existing organizations— i.e. Churches become organizing channels)

EDUCATE

(through media - newspapers; rallies for the public; organizations)

PROTEST

(defied the law; physically: marches, sit-ins; economically: boycott, strike; politically: petitions, lobbying for legislation)

LEGAL CHALLENGE

(court cases)

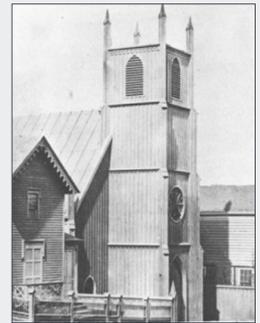
Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO UNEQUAL EDUCATION

Following are some actions taken by African Americans in response to the California state government's policy on unequal education. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

The African Methodist Episcopal Church of California (A.M.E.) organized its members to establish the first public school for African American children in California in 1854. The school, located in basement of the St. Cyprian A.M.E. Church in San Francisco, was funded by the Black community. Soon thereafter, the San Francisco school board paid the church for the school and its teacher, Reverend John Moore, using state funds. A.M.E. and other African American churches in San Francisco, Sacramento, and Los Angeles also created schools for African American children.



The Bethel African Methodist Episcopal Church in San Francisco, Date, home to the first African American school, held in the basement of the church. Courtesy of *California Historical Quarterly*.



Elizabeth Thorn Scott started a private school in her home in Sacramento in 1854 and another in Oakland in 1857. Other private Black schools existed in Marysville, Chico, Nevada County and Red Bluff. In addition to private schools, J. B. Sanderson led the African American community of Sacramento to get the local school board to fund a public African American school using the state education fund (paid by taxpayers, black and white). It took two years to get the school fully funded by California state, but by 1856 the school enrolled thirty African American students. Sanderson would continue to campaign for and found publicly funded schools for African Americans in California.

Portrait of Elizabeth Thorne Scott Flood who established the first private school for African Americans in Sacramento, California and later in Oakland, California. Courtesy of the Flood Family Papers, African American Museum & Library at Oakland, Oakland Public Library.

Civil Rights for African Americans in Early California

PART I-B: RESPONSES TO UNEQUAL EDUCATION (CONTINUED)

Following are some actions taken by African Americans in response to the California state government's policy on unequal education. As you read each response, answer the following questions:

1. What type of action was taken for the policy?
2. Why do you think that action was chosen?

After establishing itself in 1855, the Second California Colored Convention 1856 met to further address discriminatory practices against African Americans. They passed a resolution on education referring to the *Declaration of Independence's* "inalienable" rights, calling education an "inestimable" right. In all of the conventions (1855, 1856, 1857 and 1865), education was a priority. The Convention's Education Committee worked to fight against the California laws that effectively banned African Americans from public schools, working with parents to get their children admission into those schools. The Committee also established schools for African Americans and funded other organizations or individuals in forming their own schools.

Resolved, That we present a petition to the Legislature to so amend the School Law that colored children, by its provisions, shall receive the benefit of its advantages in common with others; and,

Excerpt from the Proceedings of the California State Convention of Colored Citizens 1865, regarding African American children attending public schools. Courtesy of the Colored Conventions Project, Center for Black Digital Research at Penn State University.

Education.
WHEREAS, the Convention of the colored citizens of California, called by the Phoenixian Institute, having assembled in San Jose on Wednesday, July 31st, to consider the subjects of Education, Industrial Pursuits, and the Elective Franchise; and, WHEREAS, Education means improvement—improvement is the guiding of the Deity—to whom is improvement more desirable or more necessary than those who from long oppression are just merging into the light of Liberty; and,

In 1862, The Phoenixian Institute was established in San Jose, California, as the first Black secondary school in the "west." Peter William Cassey, a black Episcopalian minister, founded the Phoenixian, also known as St. Philip's Mission School for Negroes. The 1865 California Colored Convention funded the Institute through a tax on all African Americans in the state. In addition, the school was supported by the Episcopal Diocese of California (a religious group), the San Jose School Board and tuition from students.

An article from *The Elevator*, an African American newspaper, August 16, 1867, on the Phoenixian Institute Convention addressing education and other rights for African Americans in California. Courtesy of the California Digital Newspaper Collection, Center for Bibliographic Studies and Research, University of California, Riverside.

Civil Rights for African Americans in Early California

VOICES RESPOND

“Sacramento, California, April 20, 1855. Today I opened a school for colored children. The necessity for this step is evident. There are thirty or more colored children in Sacramento of proper age to attend school and no school provided for them by the board of education. They must no longer be neglected, left to grow up in ignorance, exposed to all manner of evil influences, with the danger of contracting idle and vicious habits. A School they must have. I am induced to undertake this enterprise by the advice of friends and solicitation of parents. I can do but little, but with God’s blessing I will do what I can.”

Excerpt from Jeremiah B. Sanderson’s Diary about opening up schools for African Americans in early California. Courtesy of *The Journal of Negro Education*.



A photograph of Jeremiah Burke Sanderson who petitioned Sacramento’s Board of Education to fully fund a school for African Americans in April 1855. Courtesy of Wikimedia Commons.

THE PACIFIC APPEAL.
SAN FRANCISCO:
SATURDAY, OCTOBER 25, 1862.

The School System.
But little has been said by us in relation to the School System in this State. Many suppose that, as we have a Public School in this city for colored children, that there is also one in each county of the State. The School in this city is under the immediate control of the Board of Education for this county. In the interior cities and towns—with the exception, perhaps, of Sacramento and Stockton, where the County Board allows a small contribution towards the pay of the teachers—the colored children are entirely excluded from the schools, and no separate schools are provided. This should be a subject for our

earnest attention. The ensuing Legislature will consist of men of the most liberal views, who will not be frightened by the cry of Abolitionist, etc.—men, we believe, who will examine the subject, and recommend a reform of the present partial system, and, at least, give us schools in localities in which they are positively needed.

It is almost needless to remark that we are taxed in common with others of the State for the public education of our youth, and it is but a small privilege we ask, to have a school set apart for colored children in those counties where none have yet been established, under the auspices of the school system of the State.

At the ensuing session of the Legislature let us not fail to make this subject the basis of our prayers and exertions.

Article from *The Pacific Appeal*, October 25, 1862, regarding the education of African American children in public schools. Courtesy of the California Digital Newspaper Collection, Center for Bibliographic Studies and Research, University of California, Riverside.

RESULT

While African American Californians rallied to provide their own schools for their children, the state still separated Black and white students. Public (state supported) African American schools were few and fell far short in the quality of education than public white schools. While a California law in 1866 required the state to provide education for African Americans, it also set forth that white and Black schools would be separate. Additional laws in the 1870’s would bar Chinese children from schools until 1880 when school admissions were mandated to be open to all children. School segregation in California officially ended in 1947.

1. Did the actions/responses by African Americans affect change? Why or why not?
2. In 1865, what issues still remained for the right to equal public education for African Americans in California?

Civil Rights for African Americans in Early California

PART II – CONNECTIONS TO TODAY

African American activists continued their fight for equal rights even after the Civil War and the 13th, 14th, and 15th amendments banning slavery, providing equal protection under the law, and Black male suffrage. California's state government implemented policies that were still discriminatory against African Americans and other races. These policies continued until the 1960 Civil Rights movement where Black Americans' organizing, educating, protesting, and legal challenges to state and federal discriminatory policies won them more equality.

While the actions by and responses from various individuals forced the end of many government policies discriminating against African Americans, there are still policies that exist today that deny equality to Black Americans.

Task: Research discriminatory policies by local, state or the federal governments against Black Americans today.

1. Search the Internet for: Black Americans discrimination plus the current year.
2. Find a local, state, or federal government discriminatory policy toward Black Americans.
3. Complete the questions in the chart below about
 - a. Black Americans and discriminatory policies today.
 - b. Actions Black Americans are taking in response to this discrimination
4. Cite your source(s) of information in the chart.

DISCRIMINATORY POLICY: _____	
What is one way that Black Americans are still facing discrimination today?	What are the actions Black Americans are taking in response to this discrimination?
Source(s):	

Civil Rights for African Americans in Early California

PART III – CONNECTION TO SELF & COMMUNITY

PART III-A

Think about a time when you, a family member, a friend, or one of your communities experienced discrimination. Explain what happened in the space below or on a separate piece of paper.

Now think about which type of activism (e.g. challenge, educate, organize, protest, or other) you would like to participate in to take action against the discrimination you previously explained. Describe this type of activism in the space below or on a separate piece of paper.

Civil Rights for African Americans in Early California

PART III-B – CONNECTION TO SELF & COMMUNITY

Plan how you will participate in this type of activism. Create your plan by writing the answers to the questions in the space below or on a separate piece of paper.

QUESTIONS	MY PLAN
When will you participate in this type of activism? Choose the date(s) and time(s).	
Where will you participate in this type of activism? Choose the location(s).	
What supplies will you need to participate in this type of activism?	
Will you need other people's help to participate in this type of activism? If so, who can you ask for help?	
How much time (hours, days, weeks, months, etc.) will you need to participate in this type of activism?	
What else do you need to participate in this type of activism?	

Civil Rights for African Americans in Early California

PART III-C – CONNECTION TO SELF & COMMUNITY

Using your plan from PART III-B, participate in the type of activism you chose.

PART III-D – CONNECTION TO SELF & COMMUNITY

What was the result of this type of activism? Explain why and how it affected change or did not in the space below or on a separate piece of paper.

What would you do the same/different if you were to participate in this type of activism again?

PART III-E – CONNECTION TO SELF & COMMUNITY

Think about how you will share your experience with others. You can share your experience with others through a piece of writing, a presentation, social media, a video, and in many other ways. Write how you will share your experience with others in the space below or on a separate piece of paper.

PART III-F – CONNECTION TO SELF & COMMUNITY

Share your experience with others.

Resources

OVERVIEW

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