

Negro Civil Rights
In California: 1850



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California State Archives



Sacramento Book Collectors Club
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THE Negro's place in society and his legal rights in Gold Rush California, while generally not as precarious as that of his counterpart in other parts of the United States, were limited at best. Negroes, Mulattoes and Indians were subjected to numerous legal restrictions. One of the worst inequities was the law prohibiting Negro testimony in civil and criminal proceedings.

While the California Constitution of 1849 prohibited slavery it left for others to determine the conditions of Negro rights. Throughout the 1850's the California Legislature entertained proposals regarding the National Fugitive Slave Law and exclusion bills to prevent the immigration of Negroes into California. Among the earliest bills signed into law were two acts approved in April, 1850, setting down procedures for judicial determination in civil and criminal matters. Buried within the lengthy acts were prohibitions, in nearly identical language, stipulating that "no black or mulatto person, or indian, shall be permitted to give evidence in any action to which a white person is a party, in any Court of this State." The acts also defined a Mulatto as "Every person who shall have one eighth part or more of Negro blood . . ." Interestingly enough no mention of the Oriental is made in either act.

The degree to which the law limited the Negro's ability to obtain legal rights in California courts is well illustrated in the case of *People vs W. H. Potter*, the earliest known suit of this type in Sacramento County. The suit was heard before Justice of the Peace Charles C. Sackett in Sacramento in December, 1850. Of the defendant, William H. Potter, nothing is known. The complainant, Sarah J. Carroll, based on information from the California Census of 1852, was a Mulatto, 19 years of age in the census year. The 1860 Census gives her occupation as prostitute, age 28, one of eleven Negroes listed under that calling in Sacramento at that time. Apparently a free Negro, Sarah Carroll in time held title to properties in both Sacramento and San Francisco. The Sacramento County Assessment Rolls for the years 1856-66 list Sarah Carroll as title holder to Lot 8 on the block bounded by L and M, 4th and 5th streets. Confirmation of ownership, and also to Lot 128 at the corners of Stockton and Sacramento streets in San Francisco, was found in the case files of the Sacramento County Probate Court.

The status of Sarah Carroll as a free Negro is supported in her com-

plaint. Following Sarah Carroll's name appear the letters f.w.c. Translated the letters signify "free woman of color" a term used up to the time of the Civil War and which applied to all persons not of the white race, including Indians. What appear to be the same letters also appear after the name of Potter, giving the impression that Justice Sackett was led to believe, or assumed, possibly on the basis of Sarah Carroll's testimony, that Potter was likewise a Negro. Potter's appearance before Justice Sackett obviously corrected this error.

Sarah Carroll brought complaint against W. H. Potter on the charge of Grand Larceny for the theft of 700 dollars in gold coin and other articles of value. The impact of the discriminatory law is evidenced by the documents comprising the suit, as the case was dismissed the same day it was originally filed, the clerk of court entering on the back of the complaint "Defendent discharged, he proving himself a white man & none but Colored testimony against him." The case of *People vs Potter* is not unique as Negroes in other communities experienced similar treatment.

An outgrowth of the discriminatory law, stimulated in part by the Negro's ability to acquire property, both real and personal, and their inability to protect these rights through the California courts, led to the formation of the Franchise League. In 1852 the San Francisco-based organization commenced a petition campaign directed at the California Legislature to repeal the law. The Franchise League included many Negroes of wealth, education, and ability and gained considerable support from prominent white businessmen and others who supported repeal of the law. Included among those who signed the petitions were Mark Hopkins, William T. Sherman, and E. D. Baker, a close friend of Abraham Lincoln and later Senator from Oregon. Of the early supporters most came from San Francisco and Sacramento. Later support also came from several of the Mother Lode counties where small communities of Negroes were to be found.

A second outgrowth was the calling in 1855 of a state-wide Colored Convention in Sacramento. Delegates to the Colored Convention in many cases had their roots in the Franchise League and their primary goal was the same, repeal of the testimony law. The Colored Convention met each year from 1855 to 1857, twice in Sacramento and once in San Francisco. The petition campaign, now coordinated by the Colored Convention, reached a peak in 1856 and 1857. In 1857 alone one petition from San Francisco contained more than 500 signatures.

Despite the efforts of the Franchise League and the Colored Convention the Legislature continued to turn a deaf ear to all petitions. Not until 1863 was the testimony law repealed and the Negro allowed to testify in suits involving white men.

State of California }
Sacramento Court } 55

Sarah Carroll for. e
being duly sworn deposes that Gold coin
amounting to, between six hundred & seven hundred
dollars the property of deponent was feloniously
taken from the premises of the deponent in this
County on the 10th December inst, and on the
morning of the 12th certain Jewellery & Clothing
to wit of the value of Two hundred dollars
the property ^{of deponent} was feloniously taken & carried
away from the premises aforesaid - and
deponent has good cause to believe and well
doth believe that said property was
taken feloniously by one Wm H Potter for. e
and deponent has reason to believe that said
Potter has the said property concealed in his
baggage on board Steamship New World lying
at the wharf in Sacramento City - to wit one
large white stone breastpin - one ~~ring~~ ^{necktie} set with dia-
monds & 3 or 4 chemise buttons (4 plain 2 set) one
blue crape shawl - white flower - and wearing
apparel consisting of Sleeves 4 duffr. stockings
&c. together with the gold coin aforesaid, and Jew-
ellery in gold specimens. Sarah ^{for} & Carroll
sworn to & subscribed before
me this 12th day of December
A.D. 1850 J. N. Sackett J. P.

Sacramento County, People of the State of
California Do hereby certify that the
information on oath bearing been this day laid
before me by Sarah Abbott that the crime
of Grand Larceny has been committed
and accusing William H. Potter thereof
also Proably affidavits being made that
said crime to amount of six hundred to seven
hundred dollars gold specimens ten dollars
one large white stone breast pin one gold
bracelet set with diamonds six chemise buttons
(4 plain gold & 2 set one blue crape shawl with
white flowers and female wearing apparel
consisting of dresses hoods stockings &c
the property of Sarah Abbott
were concealed on the person of said Potter
and in his baggage on board Steamer
New World lying at the wharf in Sacramento
City. You are therefore commanded forthwith
to arrest said ~~Wm H~~ Potter and to take charge
of his person & the baggage aforesaid for trial
for said crime and if you find the same or any
part thereof you will here it before me &
you will bring the said Potter before me at my
office in Sacramento City or in case of any absence
or inability to do so before the nearest
or most accessible magistrate in your
county. Dated Dec 14th 1850 Given under my
hand at Sacramento City.

Wm H. Sackett
J.P.

Examination of ~~Wm~~ ~~Robert~~ on a charge
of Grand Larceny
State of California,
Sacramento County } ¹¹ Testimony of ~~James~~ ~~Carroll~~
James Carroll who being duly sworn deposes
that Money to the amount of One thousand
dollars in gold coin and 3 specimens
of gold of the value of ten dollars was ta-
ken from a trunk - mixed out of
it on Tuesday. Defendant occupied the
room on the night previous and as the
lock of the trunk was not forced I am
induced to am satisfied that defendant
took the money by means of my trunk
key which was in the pocket of my dep.
Said felony was committed in Sacramento City.

Ques If I reside with my wife
rent a room from her on 2nd St. I have
lived with defendant ~~at~~ for some time
past. I have never said I was his wife
but others have said that we were hus-
band & wife - Three purses were taken
out more than \$700, Defendant
told me that he had taken the money.

The money in the trunk was partly
his & partly mine ~~and~~ but no part
of the \$700 was his. The defendant kept
no part of his clothes in the trunk and he
was not permitted to have access to it.

It was Tuesday defendant told me
that he had taken the money. I asked
him to return it. I did not complain

Sooner of this because I thought we
could settle it between ourselves.

Greener gave him permission to use my
money I paid my own expenses.

Shown to & subscribed
before me this 12th day
of December 1850

Jas A. ^{my} Farrell
witness

J. A. Sackley
J. A.

55th Street

W. M. R. W.

W. M. R. W.

Refers to the
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business of the
firm & the
entire business
of the firm

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of the firm

J. A. Sackley
J. A.

12/2

STATE OF CALIFORNIA }
SACRAMENTO COUNTY } SS

Sarah Carroll f.w.c being duly sworn deposes that Gold Coin amounting to between Six hundred and Seven hundred dollars the property of deponent was feloniously taken from the premises of the deponent in this County on the 10th December inst, And on the morning of the 12th certain Jewellery & Clothing to wit of the value of Two Hundred Dollars, the property of deponent was feloniously taken and Carried away from the premises aforesaid — And deponent has good cause to believe and verily doth believe that said property was taken feloniously by one Wm H Potter f.m.c, and deponent has reason to believe that said Potter has the said property concealed in his baggage on board Steamer New World, lying at the wharf in Sacramento City — to wit one large white stone breastpin — one heart set with diamond, Six chemise buttons (4 plain 2 Set) one blue crape shawl — white flower — And wearing apparel consisting of dresses, hhdffs, stockings &C. together with the gold coin aforesaid and Ten dollars in gold Specimens.

her
Sarah X *Carroll*
mark

Sworn to and Subscribed before
me this 12th day of December
AD 1850

Chas C Sackett
JP

Examination of Wm H Potter on a charge of Grand Larceny

STATE OF CALIFORNIA }
SACRAMENTO COUNTY } SS

Personally appeared Sarah Carroll who being duly sworn deposes that Money to the amount of Seven hundred dollars in gold coin and 3 specimens of gold of the value of ten dollars was taken from deponents trunk — missed out of A m Tuesday. Defendent occupied the room on the night previous — and as lock of the trunk was not forced I [am induced to] am satisfied that defendent took the money by means of my trunk key which was in the pocket of my dress. Said felony was committed in Sacramento City.

Cross Ex I reside with Mrs. Moss rent a room from her on 2nd st. I have lived with Defendent [at] for some time past. I have never said I was his wife but others have said that we were husband and wife — three purses were taken out more than \$700, Defendent told me that he had taken the money. The money in the trunk was partly his & partly mine [and] but no part of the \$700 was his. The defendent kept no part of his clothes in the trunk and he was not permitted to have access to it.

It was Tuesday defendent told me that he had taken the money — I asked him to return it — I did not complain Sooner of this because I thought we could settle it between ourselves.

I never gave him permission to use my Money I paid my own expenses.

her
Sarah X Carroll
mark

Sworn to & Subscribed
before me this 12th day
of December AD 1850

Chas C Sackett
J.P.

SACRAMENTO COUNTY. *People of the State of California* To any Sheriff Constable Marshal or policeman in this County. Information on oath having been this day laid before me by Sarah Carroll that the Crime of Grand Larceny has been committed and accusing William H. Potter thereof Also Proof by affidavits being made that Gold coin to amount of Six hundred to Seven hundred dollars, gold specimens, Ten dollars, one large white Stone breast pin one gold heart set with diamond, Six chemise buttons (4 plain gold & 2 Set one blue crepe shawl with white flower and female wearing apparel consisting of dresses hhdffs Stockings &C the property of Sarah Carroll are concealed on the person of said Potter and in his baggage on board Steamer New World lying at the wharf in Sacramento City. You are therefore commanded forthwith to arrest said Wm H Potter and make search of his person & the baggage aforesaid for said property and if you find the same or any part thereof you will have it before me & you will bring the said Potter before me at my office in Sacramento City or in case of my absence or inability to act before the nearest or most accessible Magistrate in your County. Dated Decr 12th 1850 & Given under my hand at Sacramento City.

Chas C Sackett
JP

55 dischg

PEOPLE

VS

W H POTTER

Defendent discharged he proving himself a white man & none but Colored testimony against him

Chas C Sackett
JP

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