D37
Cameron Rowland

"It has been through all the phases of decline and is now thoroughly blighted. Subversive racial elements predominate; dilapidation and squalor are everywhere in evidence. It is a slum area and one of the city's melting pots. There is a slum clearance project under consideration but no definite steps have as yet been taken. It is assigned the lowest of 'low red' grade."

Home Owners' Loan Corporation, Residential Security Map.
Location: Bunker Hill
Security Grade: 4th
Area No.: D37
Date: 2/27/39

Slaves were constructed as property. By withholding citizenship from people who were enslaved, slavery in the United States did not violate constitutional rights. As both person and property, the slave functioned as a source of labor, chattel, and reproduction for the master as well as the greater economy. Saidiya Hartman describes the efficacy of this dual status:

> The protection of property (defined narrowly by work capacity and the value of capital), the public good (the maintenance of black subordination), and the maintenance and reproduction of the institution of slavery determined the restricted scope of personhood and the terms of recognition…In the case of motherhood, the reproduction and conveyance of property decided the balance between the limited recognition of slave humanity and the owner's rights of property in favor with the latter.[1]

State governments considered slaves taxable property. Slave owners were taxed for each slave they owned. Every state which allowed slavery taxed the slaves.[2] States relied on the slave economy to develop state government and infrastructure. These state tax codes formalized governmental involvement in the slave economy. In the United States between 1776 and 1865, the definition of *public* must be qualified to exclude the entirety of the slave population, and the definition of *property* must be understood to include the entirety of the slave population. Under antebellum tax codes, slaves were recognized and recorded as equivalent to cattle, pigs, clocks, carriages, and land. In 1860, slaves comprised 20% of all American wealth, including real estate.[3]

Immediately following emancipation, the legal status of former slaves remained ambiguous. Congress passed the Civil Rights Act of 1866 to define their legal status. Section 1 reads:

---

1 Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford University Press, 1997), 98.
2 Robin L. Einhorn, *American Taxation, American Slavery* (Chicago: University of Chicago Press, 2008), 106.
3 Einhorn, 214.

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.[4]

By conferring legal protection "as is enjoyed by white citizens," the Civil Rights Act of 1866 uses "white citizens" as its benchmark for legal protection. Hartman writes, "[T]he rejection of an explicit antidiscrimination clause in the Civil Rights Act of 1866 and the Fourteenth Amendment in favor of the language of equal protection attests to the nebulous character of the equality conferred. The Civil Rights Act both permitted discrimination in certain arenas and narrowly defined the scope of civil rights."[5]

In 1896, *Plessy v. Ferguson* confirmed the constitutionality of racial segregation, maintaining that the doctrine of "separate but equal" did not violate the Fourteenth Amendment. State laws stipulating the terms of segregation came to be known as Jim Crow laws. Jim Crow laws were enforced by both police and white citizens. Lynching secured the racial order of segregation. This order secured control of governments that were designed to serve white citizens at the federal, state, and local levels and to protect property owned by white citizens. After emancipation, citizenship—as defined by the ability to make contracts and own property equal to that of white citizens—remained reserved for white citizens.

Land ownership in the United States is most commonly registered with a deed, which also indicates restrictions or encumbrances on an owner's use of the land. In 1918, white landowners began to incorporate racially restrictive covenants into their deeds. By 1940, 80% of property in Chicago and Los Angeles carried racially restrictive covenants.[6] As the U.S. Commission on Civil Rights reported in 1973, the typical language of racially restrictive covenants stipulated:

> …hereafter no part of said property or any portion thereof shall be…occupied by any person not of the Caucasian race, it being intended hereby to restrict the use of said property…against the occupancy as owners or tenants of any portion of said property for resident or other purpose by people of the Negro or Mongolian race.[7]

Racially restrictive covenants were implemented on the basis of private contract, but they were utilized collectively among groups of white neighbors. By prohibiting nonwhite ownership, these covenants protected the value of individual homes and maintained neighborhood and regional property values. Because restrictive covenants "run with the land," all subsequent owners of the property were

---

4 Civil Rights Act of 1866, 14 Stat. 27–30, 39th Cong. (1866).

5 Hartman, *Scenes of Subjection*, 181.

6 *Understanding Fair Housing*, U.S. Commission on Civil Rights Clearinghouse Publication 42 (Washington, DC: U.S. Government Printing Office, 1973), 4.

7 *Understanding Fair Housing*, 4.

required to abide by the terms of the covenant.[8] Although *Shelley v. Kraemer* rendered these clauses unenforceable in 1948, the clauses remain as part of the deeds they were written into.[9]

The racial restrictions imposed through private contract interlocked with federal policy to maintain segregation by instituting racially restrictive financing guidelines.[10] In 1933, a mortgage company operating as part of the federal government—called the Home Owner's Loan Corporation (HOLC)—was established to assist in the refinancing of homes in foreclosure.[11] "According to the 1940 Housing Census, fewer than 25,000 of more than one million homes refinanced by HOLC went to nonwhites."[12] Beginning in 1935, the HOLC surveyed the lending risks of all cities that had a population over 40,000. These surveys were consolidated into Residential Security Maps, which were to be used by lenders to rebuild the real estate market that had been destabilized by the Great Depression. These 239 maps were divided into distinct sections, and each section was given a rating: "Best" A (green), "Still Desirable" B (blue), "Definitely Declining" C (yellow), and "Hazardous" D (red).[13] Race, class, and ethnicity were explicit criteria for the determination of these grades, as indicated in the rating reports. The maps directly influenced the mortgage lending of private banks, the Federal Housing Administration, and the Veterans Administration.[14] Areas rated A were deemed worthy of mortgage financing. Areas rated D were described as "hazardous" and mortgage loans were restricted from them. The restriction of financing on the basis of race became known as redlining.[15] The Federal Housing Administration used and continued to update the maps, continued the HOLC's use of race and the criteria of "inharmonious racial groups" in their ratings, and recommended the use of racially restrictive covenants.[16] Redlining codified the use of racial discrimination to enhance real estate markets and formalized segregation as federal policy. It also incepted redevelopment projects that resulted in widespread displacement, dislocation, and dispossession. Like sharecropping, redlining systematically maintained racial-economic subordination to white citizens, federally defining the terms of property ownership on the basis of race.

Law enforcement compounds racial definitions of property in its use of asset forfeiture to fund its operations. Asset forfeiture takes numerous forms. *Criminal asset forfeiture* describes the forfeiture of property from a person charged with a crime. *Administrative asset forfeiture* describes the forfeiture of property as a result of unpaid debt. *Civil asset forfeiture* describes the forfeiture of property involved with a crime for which no person been charged.

Civil asset forfeiture originated in the English Navigation Act of 1660.[17] The Navigation Acts were established to maintain the English monopoly on the triangular trade between England, West Africa, and the English colonies.[18] As Eric Williams writes, "Negroes, the most important export of Africa, and sugar, the most important export of the West Indies, were the principal commodities

---

8 "Restrictive covenant," Legal Information Institute, Cornell Law School, accessed August 1, 2018, https://www.law.cornell.edu/wex/restrictive_covenant.

9 *Shelley v. Kraemer*, 334 U.S. 1, 68 S. Ct. 836 (1948).

10 *Understanding Fair Housing*, 4.

11 *Understanding Fair Housing*, 4.

12 *Understanding Fair Housing*, 4.

13 Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., "Mapping Inequality," American Panorama, ed. Robert K. Nelson and Edward L. Ayers, accessed August 1, 2018, https://dsl.richmond.edu/panorama/redlining/#loc=3/39.91/-121.64&opacity=0.8&text=bibliograph.

14 Douglas Massey and Nancy Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, MA: Harvard University Press, 1993), 52.

15 Massey and Denton, 51–52.

16 Massey and Denton, 54.

17 Caleb Nelson, "The Constitutionality of Civil Forfeiture," *The Yale Law Journal* 125, no. 8 (June 2016), https://www.yalelawjournal.org/feature/the-constitutionality-of-civil-forfeiture.

18 Eric Williams, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1944), 57.

enumerated by the Navigation Laws."[19] The Navigation Acts stipulated that only English ships were to dock in English ports in both England and the colonies. If this law was violated, in lieu of pursuing a criminal proceeding, the ship and all property on board were subject to forfeiture.[20]

The Comprehensive Drug Abuse Prevention and Control Act of 1970 allowed police to seize drugs and any property used in their production or transportation.[21] The 1984 Comprehensive Crime Control Act designated all forfeiture profits at the federal level to be used for law enforcement purposes.[22] Forfeiture laws passed on the state level have created similar provisions.[23] These laws effectively constitute a financial incentive to practice asset forfeiture.

A 1995 report by the Government Accountability Office expressed concern for law enforcement agencies "becoming overzealous in their use of the asset forfeiture laws or too dependent on the funds derived from such seizures."[24] Federal and state laws have consistently expanded the violations that can result in forfeiture. In a 2001 study of 1,400 municipal and county law enforcement agencies, 60% reported that forfeiture profits were a necessary part of their budget. Forty states have forfeiture statutes that allow law enforcement to keep 45% to 100% of forfeiture proceeds.[25] Through the Department of the Treasury Equitable Sharing Program, local and state police departments can seize property under federal authority, transfer the property to the Treasury Forfeiture Fund, and receive up to 80% of the proceeds from its auction.[26]

Civil asset forfeiture is treated as an *in rem* proceeding. Rather than charging the owner with a crime, the property itself is charged. As such, forfeiture is now simply based on "whether a law enforcement agency has probable cause to believe that the property is connected to illegal activity."[27] In many states, assets may be forfeited without a conviction.[28] "[B]ecause the civil forfeiture is deemed an *in rem* action, the government conducts warrantless seizures based on probable cause, and unless the forfeiture involves a residential home, claimants are not entitled to pre-deprivation notice or hearing."[29] Former owners of forfeited property are considered third parties to *in rem* proceedings and are not entitled to public defense.

In 2015 the average cash seizure in Philadelphia was $192.[30] Low-value forfeitures are less likely to be contested, given that the costs of litigation would outweigh the value of the property in

---

19 Williams, 57.

20 Navigation Act, 12 Car. II, c.18 (1660).

21 Southern Poverty Law Center, *Civil Asset Forfeiture: Unfair, Undemocratic and Un-American*, October 2017, https://www.splcenter.org/20171030/civil-asset-forfeiture-unfair-undemocratic-and-un-american.

22 Southern Poverty Law Center.

23 Southern Poverty Law Center.

24 United States General Accounting Office, *Asset Forfeiture Programs* (GAO/HR-95-7) (Washington, DC: U.S. General Accounting Office, 1995)

25 Vanita Saleema Snow, "From the Dark Tower: Unbridled Civil Asset Forfeiture," *Drexel Law Review,* 10, no. 69 (2017): 92

26 Snow, 94.

27 Snow, 76.

28 "[E]vidence is mounting that a significant percentage of civil asset forfeitures involve seizures that cannot even pass reduced evidentiary standards. For example, in an in-depth investigative report by the Washington Post examining nearly 62,000 cash seizures, only a small fraction of the seizures were challenged, likely due to the lack of access to counsel. In over 41% (4,455) of cases where challenges were raised, however, the government agreed to give back all or a portion of the cash or property, often in exchange for an agreement not to sue regarding the circumstances surrounding its seizure by law enforcement." Beth A. Colgan, "Fines, Fees, and Forfeitures," *Reforming Criminal Justice Volume 4: Punishment, Incarceration, and Release* (Phoenix: Arizona State University, 2017), 222.

29 Snow, "From the Dark Tower," 80.

30 American Civil Liberties Union of Pennsylvania, *Guilty Property: How Law Enforcement Takes $1 Million in Cash from Innocent Philadelphians Every Year— and Gets Away with It*, June 2015, https://www.aclupa.org/files/3214/3326/0426/Guilty_Property_Report_-_FINAL.pdf.

question, and low-income owners are less likely to contest the forfeiture of their property.[31] This creates an incentive for police to target low-income people to seize low-value property, given that it has a higher likelihood of being retained.[32]

In Philadelphia between 2011 and 2013, civil asset forfeiture disproportionately targeted black people, who made up 44% of the population, 63% of all forfeitures, and 71% of forfeitures without conviction.[33] In California in 2013 and 2014, 86% and 85% of all payments, respectively, went to police agencies in majority minority communities.[34] A survey of forfeitures in Oklahoma between 2010 and 2015 found that nearly two-thirds of forfeitures from traffic stops came from black and Hispanic drivers.[35]

Civil asset forfeiture is also a practice and source of funding for the Department of Homeland Security (DHS). The creation of the Department of Homeland Security in 2003 included the creation of three new agencies: United States Citizenship and Immigration Services (USCIS), which processes applications for citizenship, residency, and asylum; Customs and Border Protection (CBP), which enforces law at the border and includes the Border Patrol agents formerly part of Immigration and Natural Services (INS); and Immigration and Customs Enforcement (ICE), which is charged with immigration and customs law enforcement within the border. ICE and CBP frequently overlap in their jurisdictions and functionality. Both can delegate powers to local law enforcement agents. CBP is the largest single law enforcement agency in the country, with approximately 60,000 employees. The Treasury Forfeiture Fund also receives assets from federal enforcement agencies through the Equitable Sharing Program and distributes up to 80% to the seizing agency. Between 2003 and 2013, DHS contributed 53% of the total revenues collected in the Treasury Forfeiture Fund.[36] In 2013, ICE contributed $1 billion in seized property to the Treasury Forfeiture Fund, almost twice that of all non-DHS agencies.[37]

No More Deaths describes the forfeiture practices of ICE, CBP, and Border Patrol as part of the "cycle of dispossession" of people who are undocumented, carried out by

> private employers who engage in illegal and exploitative labor practices in the United States; local police and towing companies that seize private vehicles and charge exorbitant daily storage rates; detention bonds and related fees associated with the immigration court system; government officials in Mexico and the United States who solicit bribes or otherwise directly rob migrants of their belongings; private prison companies whose exploitative labor practices fail to follow basic standards established in the Fair Labor Standards Act; and phone, commissary and credit card companies that contract with prisons and extract exorbitant fees for the provision of basic services.[38]

---

31 "…in cities like Philadelphia and Washington, D.C., it appears that police may be going so far as to seize small amounts of cash—in many cases less than $20—during stop-and-frisk incidents." Beth A. Colgan, "Fines, Fees, and Forfeitures," 211.

32 "Many forfeitures are unchallenged because the property value is too low to justify hiring an attorney… Ultimately, the lack of counsel and the inferential threat of prosecution may deter claimants from challenging police action." Snow, "From the Dark Tower," 88.

33 American Civil Liberties Union of Pennsylvania, *Guilty Property*.

34 American Civil Liberties Union of California, *Civil Asset Forfeiture: Profiting from California's Most Vulnerable*, May 2016, https://www.aclusandiego.org/wp-content/uploads/2016/05/ACLU-Civil-Asset-Forfeiture-Report-1.pdf.

35 Clifton Adcock, Ben Fenwick, and Joey Stipek, "Most Police Seizures of Cash Come from Blacks, Hispanics," Oklahoma Watch, October 7, 2015, http://oklahomawatch.org/2015/10/07/most-police-seizures-of-cash-come-from-blacks-hispanics/.

36 United States Government Accountability Office, *DHS Asset Forfeiture: Additional Actions Could Help Strengthen Controls over Equitable Sharing*, (GAO-14-318) (Washington, DC: U.S. Government Accountability Office, 2014), https://www.gao.gov/assets/670/662076.pdf.

37 United States Government Accountability Office, *DHS Asset Forfeiture*.

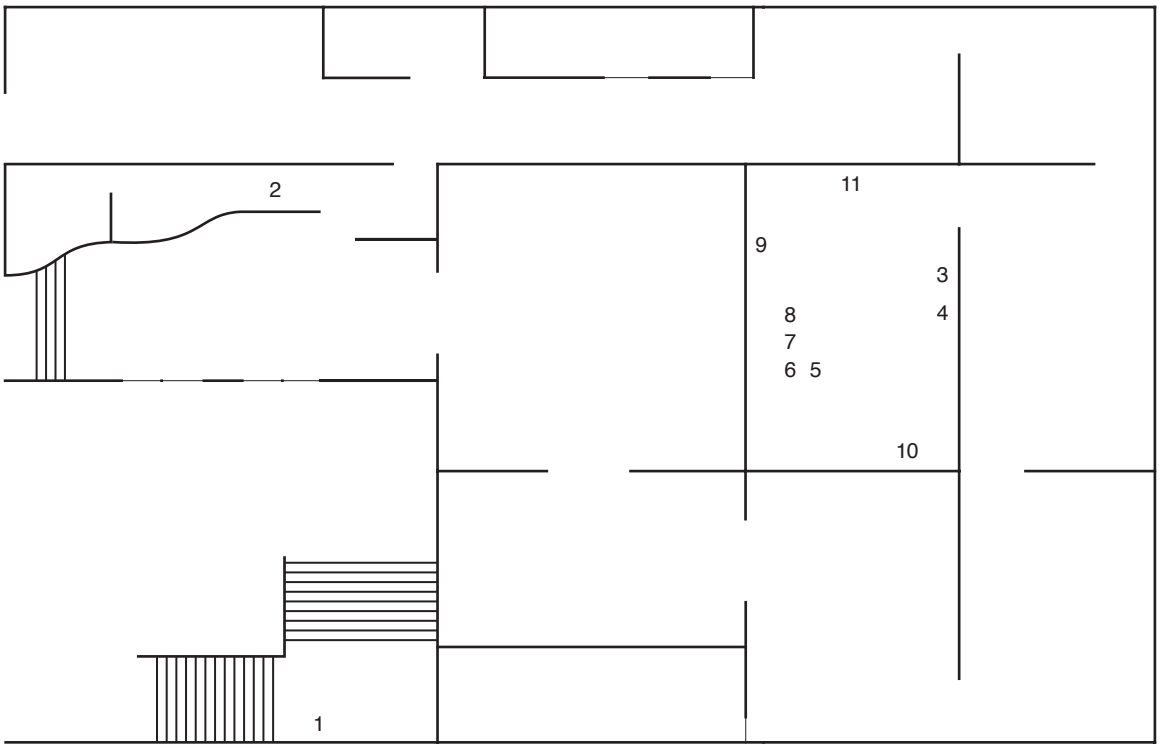
38 No More Deaths, *Shakedown: How Deportation Robs Immigrants of Their Money and Belongings*, 2014, http://nomoredeaths.org/wp-content/uploads/2014/12/Shakedown-withcover.pdf.

Each of these practices relies on the absence of protections for those rendered as noncitizens. This absence creates vested financial interests in both the labor exploitation of people who are undocumented as well as the enforcement of their "legal status." These seemingly conflicting interests form a productive double bind that maintains the status of noncitizens. These methods of dispossession have developed to closely resemble the nexus of fines, fees, and forfeitures imposed on those who are incarcerated.[39] Criminal charges eliminate basic protections and incept dispossession through cash bail; public defender fees; court fees; pay-to-stay jail and prison fees; overpriced and monopolized prison commissary, phone, and internet services; administrative forfeiture; criminal forfeiture; and private probation, among other means. Citizenship is explicitly withheld from people who are incarcerated, formerly incarcerated, and undocumented; it is implicitly withheld from those who don't meet the standard for white citizenship. The withholding of citizenship continues to structure the racial terms of dispossession.

42 USC § 1981, "Equal rights under the law," last updated in 1991, maintains white citizenship as the standard for legal protection in current U.S. statute law:

> (a) Statement of equal rights.
> All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.[40]

39 Beth A. Colgan, "Fines, Fees, and Forfeitures," 206–07.
40 Equal Rights Under the Law, 42 U.S.C. § 1981.



GRAND AVE

1
2015 MOCA REAL ESTATE ACQUISITION, 2018
Donor plaque

The redlining map of Los Angeles drawn by the Home Owners' Loan Corporation in 1939 gave Bunker Hill, block D37, the lowest possible rating. D37 extended from West 4th Street to West Temple Street, and from Figueroa Street to South Hill Street. The report indicated that residents were "low-income level" and were predominantly "Mexicans and Orientals." The HOLC's Residential Security Map report for Bunker Hill states:

> It has been through all the phases of decline and is now thoroughly blighted. Subversive racial elements predominate; dilapidation and squalor are everywhere in evidence. It is a slum area and one of the city's melting pots. There is a slum clearance project under consideration but no definite steps have as yet been taken. It is assigned the lowest of "low red" grade.

The Community Redevelopment Agency of the City of Los Angeles was formed in 1948 under the California Community Redevelopment Act of 1945, in conjunction with the 1937 and 1949 federal Housing Acts, which authorized its "slum removal." The CRA was granted powers of eminent domain to be used in the redevelopment of "blighted" areas. A primary purpose for the CRA's redevelopment projects was to increase tax revenue for the city. One of the first redevelopment projects proposed by the CRA was in Bunker Hill, on the basis that the neighborhood spent more tax dollars on police, firefighting, and healthcare than it generated. A CRA pamphlet promoting the project stated, "Blight is a liability, Blight is malignant, Blight is a social peril." The CRA's "slum clearance" project in Bunker Hill was adopted in 1959. Through seizure and through sales under the threat of eminent domain, all 7,310 residential units were demolished and their residents were forcibly removed. The CRA's slum clearance in Bunker Hill was one of the first redevelopment projects to rely on tax increment financing.

In 1980, the CRA issued a request for proposals for a project called California Plaza. Proposals were required to include an outdoor pedestrian plaza, a parking structure, and a modern art museum. The winning group of architects called themselves Bunker Hill Associates. The museum outlined in this proposal became The Museum of Contemporary Art, Los Angeles. In 1983, the CRA offered MOCA a lease on the land located at 250 South Grand Avenue for a ninety-nine-year term at no rent.

In October 2015, the CRA sold the land at 250 South Grand Avenue to MOCA for $100,000. One month later, in November 2015, a tax assessment triggered by the sale recorded the value of the land at $8,500,000.

The Department of the Treasury Equitable Sharing Program allows law enforcement agencies to contribute cash and assets to the Federal Treasury Forfeiture Fund. The primary purpose of the Treasury Forfeiture Fund is to administer federal auctions of these assets and distribute the proceeds from the auctions. Participating agencies receive up to 80% of the cash and the proceeds from the sale of assets they contribute. In states that restrict the forfeiture revenue directed to the seizing agency, police departments are incentivized to participate in the federal program.

The 2017 average revenue from sales proceeds from property seized and auctioned for each participating agency was $57,967.

The 2017 average revenue from cash forfeiture for each participating agency was $71,959.

Through the widespread targeting of low-value assets, the Equitable Sharing Program generated a total of $84,283,266 in sales proceeds and $211,277,289 in cash seizures for police.

3
Passport and Social Security Card, 2018
Unregistered IDs
2 3/16 x 3 7/16 and 2 3/16 x 3 7/16 inches

Unregistered citizenship documents are used to evade enforcement of “legal status.” These documents are illegal and operate in resistance to the exclusionary definitions of national citizenship. Citizenship documents that have not been issued by a national government disrupt the registration of citizenship.

42 USC § 1981, “Equal rights under the law,” last updated in 1991, maintains white citizenship as the standard for legal protection in current U.S. statute law:

> (a) Statement of equal rights.
> All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.[1]

1 Equal Rights Under the Law, 42 U.S.C. § 1981.

4
Group of 8 Used Bikes – Item: 1284-018213, 2018
Group of 8 Used Bikes sold for $104
45 x 149 x 56 inches
Rental at cost

5
Tanaka Hedge Trimmer – Item: 0628-002770, 2018
Tanaka Hedge Trimmer sold for $87.09
10 x 35 x 10 inches
Rental at cost

6
Stihl Gas Backpack Blower – Item: 0628-002765, 2018
Stihl Gas Backpack Blower sold for $206
18 x 25 x 43 inches
Rental at cost

7
Stihl Backpack Blower – Item: 0514-005983, 2018
Stihl Backpack Blower sold for $59
21 x 35 x 19 inches
Rental at cost

8
Summer 3d One Stroller – Item: 6781-005030, 2018
Summer 3d One Stroller sold for $1.00
42 x 20 x 33 inches
Rental at cost

9
Group of 11 Used Bikes – Item: 0281-007089, 2018
Group of 11 Used Bikes sold for $287.00
45 x 130 x 54 inches
Rental at cost

In the United States, property seized by the police is sold at police auction. Auction proceeds are used to fund the police.

Civil asset forfeiture originated in the English Navigation Act of 1660.[1] The Navigation Acts were established to maintain the English monopoly on the triangular trade between England, West Africa, and the English colonies.[2] As Eric Williams writes, “Negroes, the most important export of Africa, and sugar, the most important export of the West Indies, were the principal commodities enumerated by the Navigation Laws.”[3] During the seventeenth century, the auction was standardized as a primary component of the triangle trade to sell slaves, goods produced by slaves, and eventually luxury goods. The auction remains widely used as a means to efficiently distribute goods for the best price.[4]

Police, ICE, and CBP may retain from 80% to 100% of the revenue generated from the auction of seized property.

Rental at cost: Artworks indicated as “Rental at cost” are not sold. Each of these artworks may be rented for 5 years for the total price realized at police auction.

---

1 Caleb Nelson, “The Constitutionality of Civil Forfeiture,” *The Yale Law Journal* 125, no. 8 (June 2016), https://www.yalelawjournal.org/feature/the-constitutionality-of-civil-forfeiture.
2 Eric Williams, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1944), 56–57.
3 Williams, 57.
4 Brian Learmount, *A History of the Auction* (London: Barnard & Learmount, 1985), 30–31.

10
Assessment, 2018
Late eighteenth-century English grandfather clock acquired from Paul Dalton Plantation, Yemassee, South Carolina; 1848 tax receipt from Mississippi; 1852 tax receipt from Mississippi; 1860 tax receipt from Virginia
92 x 135 x 12 inches

In the United States, property taxes on slaves were collected by slaveholding states. By 1860, slaves constituted 20 percent of all American wealth.[1] Tax collection practices varied from state to state, but taxable assets typically included slaves, land, horses, cattle, carriages, and clocks.

Plantation owners adopted clock time during the late eighteenth and early nineteenth centuries, further regulating the labor of slaves in an effort to supply the increasing demand of industrializing Britain. The overseer would echo the chime of the housebound clock by sounding a horn or a bell. “Simultaneously tyrannical, modern, and profit-oriented, the nineteenth-century clock and its attendant ability to rationalize and order the behavior of human beings became the planters’ weapon of choice in their ongoing battle with their chattel.”[2]

Property taxes collected on slaves were used to develop the slaveholding state governments. These governments remain intact.

---

1 Robin L. Einhorn, *American Taxation, American Slavery* (Chicago: University of Chicago Press, 2006), 214.
2 Mark M. Smith*, Mastered by the Clock: Time, Slavery, and Freedom in the American South* (Chapel Hill: University of North Carolina Press, 1997), 5.

11
Depreciation, 2018
Restrictive covenant; 1 acre on Edisto Island, South Carolina

40 acres and a mule as reparations for slavery originates in General William Tecumseh Sherman's Special Field Orders No. 15, issued on January 16, 1865. Sherman's Field Order 15 was issued out of concern for a potential uprising of the thousands of ex-slaves who were following his army by the time it arrived in Savannah.[1]

The field order stipulated that "The islands from Charleston south, the abandoned rice fields along the rivers for thirty miles back from the sea, and the country bordering the Saint Johns River, Florida, are reserved and set apart for the settlement of the negroes now made free by the acts of war and the proclamation of the President of the United States. Each family shall have a plot of not more than forty acres of tillable ground."[2]

This was followed by the formation of the Bureau of Refugees, Freedmen, and Abandoned Lands in March 1865. In the months immediately following the issue of the field orders, approximately 40,000 former slaves settled in the area designated by Sherman on the basis of possessory title.[3] 10,000 of these former slaves were settled on Edisto Island, South Carolina.[4]

In 1866, following Lincoln's assassination, President Andrew Johnson effectively rescinded Field Order 15 by ordering these lands be returned to their previous Confederate owners.

Former slaves were given the option to work for their former masters as sharecroppers or be evicted. If evicted, former slaves could be arrested for homelessness under vagrancy clauses of the Black Codes. Those who refused to leave and refused to sign sharecrop contracts were threatened with arrest.

Although restoration of the land to the previous Confederate owners was slowed in some cases by court challenges filed by ex-slaves, nearly all the land settled was returned by the 1870s. As Eric Foner writes, "Johnson had in effect abrogated the Confiscation Act and unilaterally amended the law creating the [Freedmen's] Bureau. The idea of a Freedmen's Bureau actively promoting black landownership had come to an abrupt end."[5] The Freedmen's Bureau agents became primary proponents of labor contracts inducting former slaves into the sharecropping system.[6]

Among the lands that were repossessed in 1866 by former Confederate owners was the Maxcy Place plantation. "A group of freed people were at Maxcy Place in January 1866…The people contracted to work for the proprietor, but no contract or list of names has been found."[7]

The one-acre piece of land at 8060 Maxie Road, Edisto Island, South Carolina, was part of the Maxcy Place plantation. This land was purchased at market value on August 6, 2018, by 8060 Maxie Road, Inc., a nonprofit company formed for the sole purpose of buying this land and recording a restrictive covenant on its use. This covenant has as its explicit purpose the restriction of all development and use of the property by the owner.

The property is now appraised at $0. By rendering it legally unusable, this restrictive covenant eliminates the market value of the land. These restrictions run with the land, regardless of the owner. As such, they will last indefinitely.

As reparation, this covenant asks how land might exist outside of the legal-economic regime of property that was instituted by slavery and colonization. Rather than redistributing the property, the restriction imposed on 8060 Maxie Road's status as valuable and transactable real estate asserts antagonism to the regime of property as a means of reparation.

---

1 Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877*, updated ed. (New York: Harper & Row, 1988; New York: HarperCollins, 2014), 71.
2 Headquarters Military Division of the Mississippi, *Special Field Orders No. 15* (1865).
3 Foner, *Reconstruction*, 71.
4 Charles Spencer, *Edisto Island 1861 to 2006: Ruin, Recovery and Rebirth* (Charleston, SC: The History Press, 2008), 87.
5 Foner, *Reconstruction*, 161.
6 Foner, 161.
7 Spencer, 95.

October 14, 2018–March 11, 2019

The Museum of Contemporary Art, Los Angeles
250 South Grand Avenue, Los Angeles, CA 90012

Curator: Lanka Tattersall
Curatorial Assistant: Rebecca Lowery

Generous support is provided by the Mike Kelley Foundation for the Arts.

Additional support is provided by Kourosh Larizadeh and Luis Pardo.

Exhibitions at MOCA are supported by the MOCA Fund for Exhibitions with lead annual support provided by Sydney Holland, founder of the Sydney D. Holland Foundation. Generous funding is also provided by Judith and Alexander Angerman, Delta Air Lines, Earl and Shirley Greif Foundation, Nathalie Marciano and Julie Miyoshi, and Jonathan M. Segal through the Rhonda S. Zinner Foundation.

Thank You: Maxwell Graham, Emmy Levitas, Park McArthur, Mariel Rowland, Mackenzie Lew, Cheryl Harris, Ruth Mattson, Kristen Gaetke, Scott Ponik, Richard Birkett, Thomas Lax, Adam Gunther, Georgia Lill, Andrew Blackley, Thea Westreich, Ethan Wagner, David Breskin, Chelsea Hadley, Murray Abramson, Kourosh Larizadeh, Luis Pardo.