STATE OF NEW YORK

1163--A

2023-2024 Regular Sessions

IN SENATE

January 10, 2023

Introduced by Sens. SANDERS, CLEARE, COMRIE, HOYLMAN-SIGAL, JACKSON, PARKER, RIVERA, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to acknowledge the fundamental injustice, cruelty, brutality and inhumanity of slavery in the City of New York and the State of New York; to establish the New York State community commission on reparations remedies, to examine the institution of slavery, subsequently de jure and de facto racial and economic discrimination against people of African descent, and the impact of these forces on living people of African descent and to make determinations regarding compensation; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "New York State community commission on reparations remedies".

§ 2. Legislative intent. Contrary to what many believe, slavery was not just a Southern institution. Prior to the American Revolution, there were more enslaved Africans in New York City than in any other city except Charleston, South Carolina. During this period, enslaved Africans accounted for 20% of the population of New York and approximately 40% of colonial New York's households owned enslaved Africans. These enslaved Africans were an integral part of the population which settled and developed what we now know as the State of New York.

The first enslaved Africans arrived in New Amsterdam, a Dutch settlement established at the southern tip of Manhattan Island, around 1627. These enslaved Africans did not belong to individuals, but worked for the Dutch West India Company. The Dutch West India Company had established Fort Amsterdam, a fortification located on the southern tip of the Island of Manhattan, for the purpose of defending the company's fur

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD00148-11-3

trade operations on the North River, now known as the Hudson River. In 1624, New Amsterdam became a provincial extension of the Dutch Republic and it was designated the capital of the province in 1625.

These first enslaved Africans cleared forests, prepared land for agriculture and built an infrastructure of roads, buildings and walls of timber and earthwork, including the wall that gives Wall Street its name. During the following years, more enslaved Africans were brought to the New World for the purpose of expanding the settlement.

New Amsterdam came under English control in 1664 and was renamed New York in honor of the then Duke of York, in whose name the English had captured it. Three years later, the Dutch gave up their claim of the city and the rest of the colony, in exchange for control of certain trade routes and areas.

The change of control of the city did not hinder the system of slavery; it was an enormously profitable enterprise and it continued under English control. In fact, the English enacted new slave codes aimed at keeping this population repressed. Further, a new class of pro-slavery business owners also emerged seeking to, directly and indirectly, benefit from the slave trade. They supplied food, tools and grain to slave plantations in North America and in the West Indies. Slave labor built and maintained ships used for trade between North America, Europe, the Caribbean and Africa. Enslaved Africans produced goods for sale and worked in private homes. Even newspapers benefited from slavery: advertisements of enslaved Africans for purchase were a major source of revenue for the papers during the eighteenth century. With these economic relationships in place, the pro-slavery forces in New York jealously guarded what they viewed as their financial interests.

Life was repressive for enslaved Africans in New York. The New York City Common Council passed a number of restrictive laws designed at curtailing the rights and freedoms of enslaved Africans. Enslaved Africans were barred from owning significant property and from bequeathing what they did own to their children. The number of people of African descent who could gather in one place was limited. Restrictions on movement included requiring enslaved Africans to carry lanterns after dark and to remain in certain geographic areas.

Penalties for breaking these and other laws were severe. Beatings, mutilations and executions were common.

Enslaved Africans refused to submit to the slave existence. The conditions of their lives gave rise to rebellions and the development of a network known as the Underground Railroad.

Moreover, a powerful abolitionist movement developed. Nonetheless, the end of slavery in New York did not come easily or quickly. Those who profited from the slave economy fought to maintain the system.

In 1799, the New York State Legislature, at a time when sixteen sitting New York State Senators personally owned dozens of enslaved Africans, passed "An Act for the Gradual Abolition of Slavery." This legislation was a first step in the direction of emancipation, but it provided little relief in the short-term. Rather, it provided for only a gradual manumission. All children born to enslaved women after July 4, 1799 would be freed, but only after their most productive years: age 28 for men and age 25 for women. Enslaved Africans already in servitude before July 4, 1799 were reclassified as "indentured servants," but in reality, remained enslaved Africans for the duration of their lives.

In 1817, the New York State Legislature enacted a statute that gave freedom to New York enslaved Africans who had been born before July 4, 1799. However, this statute did not become effective until July 4, 1827.

Despite these laws, there were exceptions under which certain persons could still own enslaved Africans. Non-residents could enter New York with enslaved Africans for up to nine months, and the law allowed part-time residents to bring their enslaved Africans into the state temporarily. The nine-month exception remained law until its repeal in 1841, when the North was redefining itself as the "free" region in advance of the Civil War.

Nevertheless, many formerly enslaved Africans fleeing slavery and arriving in New York were forced back into slavery following the Fugitive Slave Law of 1850. Moreover, even as the laws regarding slavery were loosened, both public and private discrimination continued to maintain similar social relationships and racial hierarchies.

During the Civil War, sentiments in New York regarding the war were divided and tense. New York's finance and local institutions were still deeply entangled in the slave trade in the South and the Caribbean, and New York profited tremendously from the trade in Southern cotton. By some estimates, New York received 40% of U.S. cotton revenue through its financial firms, shipping businesses, and insurance companies.

Near the start of the war, in January 1861, New York City Mayor Fernando Wood actually suggested to the New York City Council that New York secede and declare itself a "free city" in order to continue its profitable cotton trade with the Confederacy. These same pro-slavery forces erupted into violence when the national Conscription Act was enacted on July 11, 1863. Pro-slavery forces engaged in "draft riots" in New York City, violently targeting Black Americans. Before the riots were finally stopped by federal troops four days later, over 119 New Yorkers, mostly Black Americans, had been killed. After the end of the Civil War, Congress passed the 13th, 14th, and 15th Amendments to officially end slavery, make Black people citizens, and enable Black men to enjoy all rights of citizenship including the right to vote. Although New York had given Black men the right to vote in 1827, it retained property requirements, and included new restrictions on the right to vote for those accused of committing crimes, to continuously maintain a system of disenfranchisement. On April 14, 1869, New York ratified the 15th Amendment in a party-line vote. In 1870, however, control of the Senate changed to those who were sympathetic to the recently defeated South, with State Senator William "Boss" Tweed leading a charge for New York to rescind its ratification of the 15th amendment (i.e., the right to vote). New York legislators at the time claimed that allowing Black New Yorkers to vote "would introduce ignorance to the ballot box and the suffrage would be cheapened and degraded". Along another party-line vote, New York rescinded its ratification. Fortunately, however, this rescission did not prevent the 15th Amendment from being ratified.

Following the Civil War, conditions for Black Americans in New York remained poor. Newly emancipated enslaved people and their families needed to contend with both public and private discrimination in the State of New York. Although civil rights legislation was passed in the years following the Civil War, in an attempt to guard against acts of discrimination, Associate Justice Joseph P. Bradley, of New York State, wrote a majority (8-1) decision for the United States Supreme Court, striking down these civil rights laws. The case related to an 1879 incident, where a Black New Yorker had been turned away from the Grand Opera House located on West 23rd Street and 8th Avenue; even though this man had paid for a ticket, he was turned away, and a local policeman forcibly removed him from the premises. Although the following lawsuit was brought under the civil rights act, Justice Bradley rejected the claims,

stating: "Can the act of a mere individual, the owner of the inn, the public conveyance or place of amusement, refusing the accommodation, be justly regarded as imposing any badge of slavery or servitude upon the applicant...? After giving to these questions all the consideration which their importance demands, we are forced to the conclusion that such an act of refusal has nothing to do with slavery or involuntary servitude." With this ruling, private citizens were once again permitted to lawfully discriminate against their fellow New Yorkers, with no legal recourse. A subsequent New York Times editorial, however, stated that it did not foresee any substantial changes in daily life because the civil rights legislation to protect Black New Yorkers "has never been enforced" in any meaningful way.

With this legal precedent, expanding even more broadly when the 1896 case of Plessy v. Ferguson explicitly permitted segregated railroads and street cars, Jim Crow laws, along with various forms of private discrimination, spread across the country and New York State. Segregation became particularly common in both education and housing. In 1883, when a Black resident of Kings County sought to enroll her daughter in a school for white children, her child was denied admission. In the subsequent lawsuit of People, ex. Rel King v. Gallagher, the Court ruled in a 4-2 decision that "[~~t~~]he system of authorizing the education of the two races separately has been for many years the settled policy of all departments of the State government, and it is believed obtains very generally in the States of the Union." The New York Court of Appeals upheld the segregation of schools in Kings County. Although the laws have changed in the years since this decision, research has shown that up to the present day of this writing, New York still is the most segregated state for Black students.

Discrimination in housing has also been a persistent and constant issue in New York since the Civil War. In addition to the housing inequality that came with wealth inequality, landlords have engaged in discriminatory housing practices. Black Americans of all backgrounds typically paid disproportionately higher rents, and were forced into dilapidated tenement conditions, with the support of public officials. This pattern of geographic isolation would continue to impact Black Americans in New York continuously throughout the years, including through the state-sanctioned discriminatory "redlining" practices in the 1930s, and in the segregationist urban planning implemented by individuals like Robert Moses in later decades. Importantly, the Federal Housing Administration (FHA), an institution that refused to insure mortgages in or near African American neighborhoods, subsidized builders who were creating subdivisions and developments in the suburbs, with the proviso that none of the homes be sold to African Americans. For example, in Levittown, New York, the FHA guaranteed bank loans for construction and development to Levittown on the condition that no homes be sold to African-Americans, and that every home have a clause in its deed prohibiting resale to African-Americans.

The consequences of these past practices are still with us today. In 1991, a massive African burial ground was discovered in the heart of New York's financial district during the construction of a skyscraper. The excavations that followed the termination of the construction project yielded the skeletal remains of 419 Africans, many of whom were women and children.

The consequences of slavery in New York State is not an echo of the past, but can still be observed in daily life. Systemic racism has cemented a legacy of generational poverty, and we still see today

instances of voter suppression, housing discrimination, biased policing, food apartheid, and disproportionate rates of incarceration. Currently, in the United States, the imprisonment rate of Black Americans for drug charges is almost six times that of white Americans, despite the rate of drug usage being similar among both groups. Likewise, the use of the "Stop and Frisk" tactic by the New York City Police Department has had disparate impacts: at the policy's peak in 2011, an estimated 685,724 people were stopped, with fifty-three percent of those being Black, even though only twenty-six percent of New York City's population was Black. These policies have also led to the tragic deaths of Black Americans here in New York, such as Daniel Prude, who was unarmed and facing a mental health crisis when he was forcibly restrained by Rochester police, and ultimately died due to complications of asphyxia resulting from his restraint.

New York State's status as an economic and cultural hub of the world has been built and shaped by slavery. The contributions of enslaved Africans has provided the resources upon which trade and commerce in New York was built. Some of our most prestigious institutions and infrastructure were built with these contributions. However, New York State also has the largest income disparity in the country, and that large disparity is in large part the legacy of our slave system.

This legislation is necessary because the slavery that flourished in New York State constituted an immoral and inhumane deprivation of Africans' life, liberty, citizenship rights, cultural heritage, and denied them the fruits of their own labor. A sufficient inquiry has not been made into the effects of the institution of slavery on present day society in New York.

§ 3. Establishment, purpose and duties of the commission. a. Establishment. There is hereby established the New York State community commission on reparations remedies (hereinafter referred to as the "commission").

b. Duties. The commission shall perform the following duties:

(1) Examine the institution of slavery which existed within the State of New York and in the City of New York. The commission's examination shall include, but not be limited to, an examination of:

(A) the capture and procurement of Africans;

(B) the transport of Africans to what is now known as New York City and New York State for the purpose of enslavement, including their treatment during transport;

(C) the sale and acquisition of Africans as chattel property in interstate and intrastate commerce, including the direct and indirect benefits that New York received from these economic relationships;

(D) the treatment of enslaved Africans in the City of New York and the State of New York, including the deprivation of their freedom, exploitation of their labor, and destruction of their culture, language, religion, and families; and

(E) the treatment of formerly enslaved Africans and their descendants in the City of New York and the State of New York during the period between the end of the Civil War and the present.

(2) Examine the extent to which the federal government, as well as the state and local governments of New York, supported the institution of slavery, including the extent to which such governments prevented, opposed, or restricted efforts of freed enslaved Africans to repatriate to their homeland.

(3) Examine how New York State engaged in the interstate transfer of enslaved Africans, and carried out federal policies in the furtherance of slavery.

(4) Examine the de jure and de facto discrimination against freed enslaved Africans, their descendants, and people of African descent, generally, at both the state and federal levels of government, during the period between the end of the Civil War and the present, including, but not limited to, economic, political, educational, and social discrimination.

(5) Examine the lingering negative effects of the institution of slavery and discrimination on living people of African descent and on society in the State of New York.

(6) Examine the current condition of living people of African descent in the State of New York, to the extent practicable, including, but not limited to, economic, political, educational, and social conditions.

(7) Recommend appropriate ways to educate the public of the commission's findings.

(8) Recommend appropriate remedies and reparations in consideration of the commission's findings on the matters described in paragraphs 1, 2, 3, 4, 5, and 6 of this subdivision to determine how the state of New York may provide for appropriate laws, policies, programs, projects, and other recommendations in order to reverse such injuries. Such remedies may include compensation, including but not limited to the amount of compensation and who should be eligible for such compensation.

(9) Examine the feasibility for the creation of a bureau to assist in the distribution and administration of remedies and reparations as recommended by the commission pursuant to paragraph 8 of this subdivision.

c. Report to the legislature. The commission shall submit a written report of its findings and recommendations to the temporary president of the senate, the speaker of the assembly, the minority leaders of the senate and the assembly and the governor not later than one year after the date of the first meeting of the commission held pursuant to subdivision c of section four of this act.

§ 4. Membership. a. Appointment of members. The commission shall be composed of nine members who shall be appointed within 90 days after the effective date of this act, as follows:

(1) three members shall be appointed by the governor;

(2) three members shall be appointed by the speaker of the assembly;

(3) three members shall be appointed by the temporary president of the senate.

b. Qualification of members. All members appointed to the commission shall be persons who are especially qualified to serve on the commission by virtue of their expertise, education, training, or lived experience, in the fields of African or American studies, the criminal legal system, human rights, civil rights, law, economics, psychology, civil society and reparations organizations that have historically championed the cause of reparatory justice, clergy, and/or the history of slavery in New York, and, to the extent possible, represent geographically diverse areas of the state.

c. First meeting. The first meeting of the commission shall take place within 180 days after the effective date of this act.

d. Quorum. Five members of the commission shall constitute a quorum, but a lesser number may hold hearings.

e. Chair and Vice Chair. The commission shall elect a Chair and Vice Chair from among its members no later than the first meeting.

f. Compensation. The members of the commission shall receive no compensation for their services as members, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

§ 5. Powers of the commission. a. Hearings and sessions. The commission shall, for the purpose of carrying out the provisions of this act, solicit public input from stakeholders and interested parties, and shall hold such public hearings as the commission considers appropriate.

b. Powers of subcommittees and members. Any subcommittee or member of the commission may, if authorized by the commission, take any action which the commission is authorized to take by this section.

c. Obtaining official data. The commission may acquire directly from the head of any department, agency, or instrumentality of the state, available information which the commission considers useful in the discharge of its duties. All departments, agencies, and instrumentalities of the state shall cooperate with the commission with respect to such information and shall furnish all information requested by the commission to the extent permitted by law. The commission may also coordinate with historically black colleges and universities and research centers to conduct research and acquire additional information which the commission considers useful in the discharge of its duties pursuant to this act.

§ 6. Termination. The commission shall terminate 90 days after the date on which the commission submits its report to the temporary president of the senate, the speaker of the assembly, the minority leaders of the senate and the assembly and the governor as provided in subdivision c of section three of this act.

§ 7. This act shall take effect immediately and shall expire and be deemed repealed 90 days after the New York State community commission to study reparations remedies submits its report to the temporary president of the senate, the speaker of the assembly, the minority leaders of the senate and the assembly and the governor as provided in subdivision c of section three of this act; provided that, the chair of the New York State community commission to study reparations remedies shall notify the legislative bill drafting commission upon the submission of its report as provided in subdivision c of section three of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the State of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.