

“Law and the Black Church in the Jim Crow South”

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This paper explores the history of the black church after the Civil War through the prism of law. Given how central the church was to African American life in this period (and to subsequent scholarship), it is surprising how little has been said about its economic and legal dimensions, especially its complex character as “property.” Scholars of African American religion have tended to assume the existence of church deeds, liens, mortgages and the like, rather than to investigate them. Yet when we talk about the rise of the independent black church after the Civil War, in a very important sense we are talking about the independence conferred by owning property: robes, hymnals, a minister’s salary, pews and, above all, a building to worship in. Black churches were imbricated in law, chiefly through their existence as property.

Drawing on local civil court records from Virginia and Washington DC, I argue that the rise of the independent black church was one of several factors pulling African Americans into a relationship with the legal system. My evidence suggests that the rise of churches and other independent black institutions after 1865 was accompanied by a substantial upturn in black legal activity. They generated cases that shed new light on some of the key questions surrounding their rise: questions about leadership, inclusion, generational change, and the views and activities of black women in an institution led by men. In focusing on such cases, where both plaintiffs and defendants were black, the paper also seeks to contribute to a wider analytical shift, by putting race relations—perhaps the dominant framework of African American history—in the context of intra-racial negotiation. This paper is part of a larger project on African Americans’ engagement with local courts between the Civil War and the Great Migration.