

**LATE NINETEENTH CENTURY CIVIL RIGHTS ORGANIZATIONS AND
THEIR ROLE IN THE FOUNDING OF THE NAACP AND NATIONAL URBAN LEAGUE**

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ABSTRACT

Many historians have noted that the ideas underlying the founding of the NAACP and National Urban League came from experiments conducted by late nineteenth century civil rights and community uplift organizations including T. Thomas Fortune's Afro American League;¹ the Afro American Council; Du Bois's Niagara Movement, through which he sought to gather the race's "talented tenth" of leading professional men to lead the assertion of "manhood rights"; and the National Association of Colored Women's Clubs. But no one has yet traced in detail the development and transmission of these ideas underlying late nineteenth century racial justice activism into early twentieth century civil rights institutions. This is the task my project undertakes.

More specifically, this project traces the development and transmission of ideas relevant to the conceptual divide leaders carved after the founding of the NAACP and the National Urban League when they divided their jurisdictions by assigning political and civil rights issues, to be addressed through law-based strategies, to the NAACP, and economic and social welfare matters, to be handled through voluntarist, non-legal strategies focused on the "private" or non-regulatory sphere, to the National Urban League.² This decision played an important role in setting the direction of early twentieth century race activism. That the decision was not mandated solely by political and social circumstances is shown by the fact that other reform organizations of the same era, such as Florence Kelley's National Consumers' League, took a very different approach, aggressively pursuing social welfare objectives through statutory reform and litigation campaigns.

This project argues that race, class, and gender affected civil rights leaders' strategies in this regard, leading them to correctly determine that disfavored racial minorities should to stick to the assertion of formalist equality claims through law, and that achieving substantive social welfare goals required either intra-community self-help or fundamental economic restructuring on social democratic lines. The economic restructuring analysis that motivated the political vision of many turn-of-the century race justice leaders active in the founding of the NAACP and National Urban League has been lost to history, but its resurrection helps explain ideas important at the nascence of key twentieth century civil rights institutions.

¹ See Susan Carle, "Debunking the Myth of Civil Rights Liberalism: Visions of Racial Justice in the Thought of T. Thomas Fortune, 1880-1890," 77 *Ford. L. Rev.* 1479 (2009).

² See Nancy Weis, *The National Urban League* 65-66 (1974) (describing this jurisdictional split).

The Business of Civil Rights: Black Realtors and *Shelley v. Kraemer*
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This paper addresses the relationships between civil rights attorneys and African-American real estate agents in the post-World War II fight against housing discrimination. In the 1940s, the rapidly growing black populations in northern and western cities forced a confrontation over the enforcement of racial restrictive covenants. White homebuilders and homeowners had used covenants since the 1890s to prohibit African Americans and other minority groups from using or occupying properties in predominantly white residential areas. By World War II, black realtors and civil rights advocates had begun to form uneasy alliances in order to carry forward the fight against these discriminatory instruments. Their efforts culminated in the U.S. Supreme Court's decision in *Shelley v. Kraemer* (1948).

This paper examines the origins of the *Shelley* case in St. Louis, where a uniquely active community of black realtors fueled the anti-covenant litigation campaign. The partnerships that eventually developed between the real estate men, local attorneys, and the legal offices of the National Association for the Advancement of Colored People (NAACP) were complex and rife with tensions. Realtors brought much needed financial and organizational support to the taxing process of civil rights litigation. At the same time, legal activists faced the challenge of how to cooperate with businessmen whose profiteering often offended the attorneys' sensibilities and who were most interested in their own opportunities for economic advancement. Ultimately, exploring the role of realtors in shaping *Shelley* offers a clearer understanding of how community participation in the litigation process influenced the priorities and progression of local civil rights cases. The tangled web of actors and motivations that affected the fight against restrictive covenants in St. Louis can help us to understand better the complexities of litigating racial justice at the grassroots.

“Of Deacons, Panthers, and Liberation Armies: Civil Rights, Black Power and the Second Amendment,”

Keith Mayes

“So far, we in the Deacons have been strictly defensive in our activities,” said Charles Sims in 1964, “but we are getting very tired of this kind of stuff going on. Incidents of this type will force us to retaliate.” If the First and Fourteenth Amendments to the U.S. Constitution played a major role in the black freedom struggle, then the Second Amendment equally emerged as an important constitutional question for African-Americans. This paper places the Civil Rights and Black Power movement’s language of “self-defense,” and the Second Amendment’s language of “the right to keep and bear arms” side-by-side, examining the politics of protection during the long 1960s. Seeking to protect themselves from both vigilante white mobs and aggressive law enforcement, the actions and the utterances of the Deacons of Defense, the Black Panther Party, the Black Liberation Army, Malcolm X and Robert Williams were principally about the law—not breaking the law, but rather testing the application of the law and the U.S. Constitution to the lives of black people.

The rise of gun advocates such as the National Rifle Association (NRA) and their ability to craft, articulate and promote the idea that ordinary people have the right to carry firearms, and to protect themselves from a tyrannical federal government evolved as the conservative and dominant view of the Second Amendment beginning in the early 1960s. By advocating for the right of self-defense and “picking up the gun,” the black critique of state violence (via local police departments, state and federal law enforcement agencies) as well as violence from private white individuals against unarmed African-Americans unknowingly joined black activists to a growing conservative Second Amendment tradition. The Deacons of Defense’ consultation with the NRA in 1965 is just one example of the way in which the black right to bear arms was eerily similar to the conservative constitutional position, making black “self-defense” proponents and white “gun rights” advocates strange political bedfellows. This paper concludes by demonstrating how the actions of black activists were not only misunderstood but also deeply threatening to the established order, resulting in criminal prosecutions and convictions reminiscent of historical attempts to regulate and restrict black firearm ownership in the 18th and 19th centuries.

"Taxpayer Citizenship" and the Right to Education: 1929-1959

This paper argues that there was a consistent "taxpayer's right to education" legal consciousness put forward by many people on both sides of school segregation debates from 1929 to 1959, from families of color writing to the NAACP to segregationists fighting against the Supreme Court. This paper argues that the consistent use of "taxpayer" legal consciousness by groups on all sides of the segregation debate entrenched fiscal inequalities in education by implicitly tying educational benefits to the amount of taxes paid. Even though courts did not formally consider taxpayer status as a basis for education claims, they would eventually defend the rights of wealthier taxpayers to unequal schools through language rooted in popular taxpayer citizenship claims. First, the paper builds on and combines the recently expanded historiographies of the civil rights movement and of conservative backlash by tracing the continuous assertion by both desegregation advocates and segregationists of a legal identity as "taxpaying citizens," a fundamentally conservative identity closely linked to the idea of a right to education in these arguments and claims. Second, I engage with the work of critical legal theorists and legal histories "from the ground up" in understanding the role of legal consciousness in the courtroom by locating these identities in personal letters, transcripts and other sources produced by the people who were most affected. Finally, this project expands on the legal history of the school desegregation movement, white backlash, and the NAACP's courtroom strategies in order to identify what might have been lost in an argument that education rights were linked to taxpaying status. This framework of claiming citizenship through a rubric that can be defined in terms of wealth, in terms of who pays "more" and who pays "less," would continue to haunt future attempts to secure equal education for poor children of color.