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The African Supplement: Religion, Race, and Corporate Law in Early National America

Sarah Barringer Gordon

In 1807 the trustees of Bethel Church in Philadelphia, technically known as the Association of the African Methodist Episcopal Church, submitted proposed amendments to their articles of incorporation to the attorney general, supreme court, and governor of the Commonwealth of Pennsylvania. The seven amendments were sharply worded, clearly designed to overturn the existing governance of Bethel. The new rules would allow the (black) trustees to mortgage the church, expel or suspend current members, appoint preachers and exhorters, and refuse to accept any preacher nominated by the (white) Methodist minister of the nearby St. George's Church if a majority of the Bethel trustees did not approve...
the appointment. As Bethel Church founder Richard Allen explained to Methodist bishop Francis Asbury, he and his fellow trustees drafted the amendments not as a means of severing Bethel’s connection to Methodism but only to “regulate our affairs, temporal and spiritual, the same as if we were white people.”

These amendments, duly reviewed by Pennsylvania officials who certified that they were “lawful,” have become known as the African Supplement. They represented a bold equalizing step in an ongoing dispute over control of the first Methodist church established by and dedicated to serving African Americans. In the end, the African Supplement became part of a war for independence. It was a declaration of liberty from white oversight and management for Bethel; it led to formal independence within ten years, despite Allen’s assurances to Asbury. The African Supplement also spawned other independence movements among African American churchgoers.

The rejection of white domination through amendments to articles of incorporation illustrates how thoroughly law and legal structures infused


3 Daniel A. Payne, History of the African Methodist Episcopal Church, ed. C. S. Smith (Nashville, Tenn., 1891), iv (quotation), 45, 261–67. The formation of separate African American churches occurred in slave as well as free states, especially after the development of the African Methodist denominations. Scholars have documented coherent separate religious communities in Alabama, Delaware, Georgia, Kentucky, Maryland, South Carolina, and Virginia, although many aspects of their histories have been lost. Sylvia R. Frey and Betty Wood, Come Shouting to Zion: African American Protestantism in the American South and British Caribbean to 1830 (Chapel Hill, N.C., 1998), 149–81. In Charleston, South Carolina, the ex-slave Denmark Vesey, a founder of an African Methodist Episcopal church, was accused of plotting an insurrection. The church and the rebellion were suppressed in 1822, and suspected conspirators were hanged. The church’s minister, Rev. Morris Brown, went north to Philadelphia, where in 1831 he became the second bishop of the African Methodist Episcopal Church and pastor of Bethel Church. Bernard E. Powers Jr., “Seeking the Promised Land: Afro-Carolinians and the Quest for Religious Freedom to 1830,” in The Dawn of Religious Freedom in South Carolina, ed. James Lowell Underwood and W. Lewis Burke (Columbia, S.C., 2006), 138–39.
the life of separatist African American churches in the early Republic. Bringing law into focus shows how such churches were built, defended, and fought over by black congregations. Battles for control were conducted with legal weapons, including opinions of state courts, lawyers’ advice to clients on both sides, and elections of trustees. The importance of corporate law to religious life in early national America, which played out so dramatically for Bethel and other black churches, lay in its power to generate havens for spiritual life regardless of race. Incorporation created a new legal person, with the capacity to own property as well as the right to sue and to defend itself. The corporation was neither black nor white and thus, for black people in many jurisdictions, it could be deployed in otherwise inaccessible spaces (for example, courts or government administrative offices) to accomplish objectives, such as independence and ownership of property, that would otherwise be unattainable or unsustainable. Pride in this legal identity as owners and managers of a sacred space was essential to church formation and communal worship, a transformative experience for African Americans in the early Republic (Figure I).

Scholars have missed the importance of incorporation in African Americans’ struggle for freedom. The oversight may well be traceable to the unexpected role that corporations played in religious life in general, and in independent African American churches in particular. Traditionally, corporations had been used as tools of empire, monopoly, finance, and local government—all sites of potential oppression, corruption, and abuse. Significant anticorporate sentiment after the American Revolution made the relatively rapid embrace of the corporate form something of a surprise. Suspicion of banks and other potentially monopolistic corporations ran high in the early Republic, but the imposition of more democratic rules and limitations on monopolies for internal improvements also allowed a less threatening image of the corporation to take root by the second quarter of the nineteenth century. This process created a new field of

4 The rich vein of litigation and legal change traced in this article focuses on the earliest and arguably the most successful African American religious corporations based in Philadelphia. These corporations may have been the first such bodies to turn to law, but others bear investigation, with an eye to augmenting our understanding of the distinct ways that African American religious life was both sustained and challenged by the law of religion.

Richard Allen in middle age, donated to Mother Bethel African Methodist Episcopal Church by the Pennsylvania Abolition Society in 1976. Allen went from being the object of oppressive laws in slavery to serving at the helm of an incorporated church and as the founding bishop of a powerful new denomination, the African Methodist Episcopal Church. Courtesy of Mother Bethel A.M.E. Church, Richard Allen Archives, Philadelphia. Photo by Sarah Barringer Gordon. A color version is available on the OI Reader, Project Muse, and JSTOR.
in institutional innovation, eventually including all sorts of enterprises under the broad corporate umbrella.

Religious societies were the first widely recognized private corporations, entrusted by legislatures with the general power to incorporate decades before this privilege was extended to businesses. These vitally important developments in the private law of religion have not been the subject of scholarly investigation. Instead, historians of religion and law have focused primarily on the period leading up to disestablishment, a process that began in earnest at the outset of the Revolution and was substantially complete (outside New England) by 1800. And although some legal scholars have argued that general incorporation for religious societies was the template for the rise of the business corporation, the two followed distinct chronologies, with the religious corporation becoming a settled practice long before commercial enterprises were routinely incorporated.


6 The exception was Virginia, which prohibited incorporation for religious societies, although that rule was softened considerably by judges, who allowed security of property through the election of trustees, even without formal incorporation. “An Act to Repeal the Act for Incorporating the Protestant Episcopal Church and for Other Purposes,” October 1786, in William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (Richmond, Va., 1823), 12: 266–67. See Virginia Constitution, art. 4, sec. 14 (repealed 2006): “The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.” See also H. J. Eckenrode, *Separation of Church and State in Virginia: A Study in the Development of the Revolution* (Richmond, Va., 1910), 29; G. MacLaren Brydon, “The Antiecclesiastical Laws of Virginia,” *Virginia Magazine of History and Biography* 64, no. 3 (July 1956): 259–85. A recent lawsuit toppled the old rule. See Falwell v. Miller, 203 F. Supp. 2d 624, 632 (W.D. Va. 2002).


Governments first delineated the ground rules for new religious organizations, and then spiritual communities built many versions of these institutions in the decades after disestablishment. The regulatory environment was based on distinct elements of government control and on the state’s protection of the institutional status of religious organizations. Limits on property and other forms of wealth were ubiquitous in state statutes, clearly aimed at preventing the acquisition of wealth and political power among elite clergy, as well as at providing security for church members and modestly democratic mandates for church governance. But as legislators and judges drafted and interpreted rules for religious corporations, unexpected and innovative religious societies emerged to claim a place in the new regime. Exploring this legal history reveals a determined struggle for religious liberty by African American congregants—first the battle for tools of power and then growing sophistication in wielding them. Great waves of organizational energy flowed into self-styled “African” religious corporations as African American worshippers embraced and fought to control the new law of religion. 

Closer relationship between nonprofit organizations governed by elected trustees and the earlier enactments for general incorporation of religious societies seems clearer, however, especially given that Pennsylvania’s statute explicitly made the connection between religious, educational, and charitable organizations in 1791. Although beyond the scope of this article, the much later appearance of general incorporation for businesses may also argue against the claim of a direct link. For example, the legal historian James Willard Hurst argued that general incorporation statutes were delayed by decades for business organizations because special charters were an occasion for extortion by legislators—a concern that would not have been raised in connection with charitable organizations, he implied. Hurst, *Legitimacy of the Business Corporation*, 136.


Taking the efflorescence of new religious corporations into account, it is clear that law and legal rules had deeply divergent effects in the lives of free and enslaved African Americans in the early national period. The law could support the theft of lives and the destruction of peoples, but it could also enable the formation of vital institutions controlled by black Americans. In religious life, law helped shape liberty; in other facets of the day-to-day world, it imperiled freedom and even survival. Richard Allen knew this dualism well. He was arrested in 1806, just a year before the African Supplement laid claim to control Bethel; a slave catcher charged that Allen had escaped from slavery in the South. Allen was well known in Philadelphia and the charge was quickly dropped. But the danger from the law was as present as its protection, even in Philadelphia, home to the largest free black population in the country, especially as kidnappings increased after the close of the formal slave trade (Figure II). In light of the threat, the legal history of Bethel assumes an even more dramatic cast. The power of independence bestowed by corporate law (eventually) provided institutional protection that individuals could not achieve on their own, but it was never easy. Bringing the law back in, as this article does, provides new insight into the battle for freedom and agency in religious life.

The drama played out on two distinct levels: the power to invoke the protection of the state through incorporation was balanced by the capacity of dissenters from within the corporation to do the same. The blessing of corporate status was deliciously (or distressingly, depending on one’s perspective) available upon completion of a few simple requirements. Thus, the power to dissent and disengage from white authority by no means ensured tranquility or consensus among black congregations. Dissenters, whose “insubordinate spirits” troubled the work of God, according to an early historian of Bethel, had the same power to protest against insults that Richard Allen had deployed in the African Supplement. They used


13 Payne, History of the African Methodist Episcopal Church, 30 (quotation). Payne lamented the failure of the “vain efforts of the Annual Conference” of 1820 to prevent “sowing discord,” or “raising schisms,” or “tale-bearing” by “discontented and insubordinate spirits.” Ibid.
their power early and often, not just at Bethel but also in other African American churches, arguing that their own leaders had abandoned the righteous path and must pay for their betrayal in courts of law. The fracture of religious community was, therefore, also housed in legal argument and conflict over membership, property, and control. Movements for independence came from within, as Allen and other African American separatist church leaders learned to their dismay.

The legal history of race and religion in early national America reflects the two sides of this legal regime, with formation and fracture occurring at multiple levels over time. The African Supplement was drafted in 1807, at the midpoint of Bethel's twenty-year journey to independence. By then,
Bethel trustees had become adept at claiming legal power; they had learned from earlier mistakes. In the face of many difficulties, church founder Allen and his flock gradually carved out a space for their own spiritual freedom in the 1790s and beyond. But their victory was never complete. Instead, it was marred by dissent and schism emerging from within the congregation.

Bethel African Methodist Episcopal Church had humble beginnings. In 1794 Allen opened the doors of the first church building in what had been a blacksmith’s shop. This was a Methodist church, a denomination that had only existed for a decade. Before the American Revolution, Methodism was an evangelical movement within the Church of England. Its formal organization as a separate American denomination in 1784 followed soon after Methodist preachers’ fervent denunciations of slavery.14

The father of the movement, Englishman John Wesley, argued that all “ties of humanity” counseled against “the buying or selling [of] the bodies and souls of men, women or children.”15 Methodists’ opposition to slavery was nourished by the Revolution and by Bishop Francis Asbury, who in 1780 briefly instituted a requirement that all Methodist preachers free their slaves and encourage followers to do the same. Even so, antislavery among Methodists was cautious in comparison to Quakers, and Asbury’s manumission rule did not last long.16

The Free African Society, an unincorporated association of free blacks founded by African American Methodists Absalom Jones and Allen in 1787, was dominated by Quaker practices, such as a fifteen-minute silence observed at the beginning of each meeting. But Allen argued trenchantly that Methodist patterns of worship, including hymnody, itinerant preaching, shouting, and love feasts, all appealed far more broadly than “Friendly” silence and restraint. Allen was formally “disunited” from the Free African Society after only two years for making such strident arguments, as he refused to abandon the enthusiastic Methodist worship that drew African Americans in greater numbers. Nationwide, the initial Methodist membership of fifteen thousand in 1784 had grown to sixty thousand by 1800. Approximately one-third were of African descent.17

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14 For a review of such denunciations and the history of the denomination with regard to slavery, see Donald G. Mathews, _Slavery and Methodism: A Chapter in American Morality, 1780–1845_ (Princeton, N.J., 1965).
15 John Wesley, _Thoughts upon Slavery_ , 2d ed. (London, [1774]), 35 ("ties"); Wesley, _Form of Discipline, for the Ministers, Preachers, and Members of the Methodist Episcopal Church in America. . . ._ (New York, 1789), 48 ("buying").
17 For a review of the increasingly Quaker overtones of the Free African Society’s ceremonies and meetings, see Carol V. R. George, _Segregated Sabbaths: Richard_
The process of racial separation and the creation of a new legal identity for black congregations took less than a decade. Beginning in the late 1780s and gathering speed during the early 1790s, black religious life became the central expression of African American institution building. Among African Americans, Methodism had been practiced since at least 1769, and it was especially well documented in Philadelphia and its environs. Allen was converted in 1777 by a circuit rider (reportedly Freeborn Garrettson, a Maryland native and powerful Methodist itinerant well known in the mid-Atlantic region for having freed his slaves after conversion in 1775) in a clearing in the Delaware woods at age seventeen. Following his embrace of Christianity, legend has it that Allen brought the itinerant Methodist to his master's home. There the preacher persuaded the slaveholder to manumit the new Christian, according to some versions of the story, or to allow him to purchase his own freedom over the next five years, in Allen's own version. In this legal and spiritual journey from slavery to freedom, the connection between Methodism and liberty was firmly etched in Allen's experience; he equated the two for the rest of his life. He left Delaware in 1783 and spent several years as an itinerant exhorter, arriving in Philadelphia in 1786, where he evangelized among African Americans.18


By the early 1790s, black Methodists were holding separate meetings at Allen's house as well as a series of love feasts outside Philadelphia. These meetings were occasioned in part by increasing pushback among white Methodists. As they built more solid churches and progressed by inches toward greater respectability, white Methodists segregated the new pews and graveyards, relegating black congregants to balconies and older burial grounds. At the same time, Allen and Jones recruited new members of Methodist churches among the fast-growing free and enslaved black population in Philadelphia. The Pennsylvania Abolition Society formed in 1775 and was officially incorporated in 1789, making Philadelphia the locus of the first abolitionist movement in the United States. Gradual emancipation in Pennsylvania also meant that Philadelphia's slave population decreased steadily, and the three slave states that shared borders with Pennsylvania, despite their lack of formal emancipation laws, saw slavery decline after independence. Many former slaves, newly freed in Delaware, Maryland, or Virginia, poured into Philadelphia, which was the most accessible metropolitan area, as well as the most welcoming. The success of Methodism among these migrants was so swift and widespread that the increase in numbers of new black Methodists clearly exceeded growth among whites.


This surging African American membership added to the pressure on mixed services, but white Methodist leaders initially were loath to concede independence to their black brethren. Jones and Allen encountered “insulting language” when they approached the leaders of St. George’s to inquire about a separate site for an African church. Yet even the most respectable members of African descent soon found themselves relegated to the rear of the church or learned of plans to build over the gravesites of their kinfolk. Eventually, Jones was forcibly dragged to his feet while praying in the central area of St. George’s Church and told to retreat to the rear or be ejected. Most African Methodist congregants then walked out of St. George’s with Allen and Jones. In response to such insults, Bishop Asbury and other sympathetic Methodist leaders finally agreed with Jones and Allen that a separate church building would be the most expedient solution.21

The departure from St. George’s, the separate meetings, and especially the dedication of the new Bethel Church were initial steps along black Methodists’ decades-long path toward the formation of a new denomination, the African Methodist Episcopal (AME) Church. More immediately, Allen quickly faced trouble among his own people. Jones, Allen’s most important ally in Philadelphia, reacted strongly against the racism of Philadelphia’s white Methodists. He and Allen left St. George’s together, but soon most of their group concluded that Methodism had forfeited their loyalty. Jones became the founder of St. Thomas African Episcopal Church, which opened in 1792 and officially affiliated with the Episcopal Church in 1794.22


22 An agreement of union was negotiated between William White and Absalom Jones in 1794. The Episcopal Council of Advice (composed of both lay and clerical members) approved the St. Thomas constitution on Oct. 23, 1794. “The Causes and
Relations between Jones and the broader Episcopal denomination proceeded far more serenely than those between Allen and the Methodists. Jones was ordained as an Episcopal deacon in 1795 and then as a priest in 1804. Most difficult for Allen, a majority of the group that had left St. George's followed Jones, whose Anglican contingent built its first church on a plot of land that had initially been intended to house the unified African Methodist church. Bethel opened two years later and in a less desirable location, a fact that attested not only to Jones's organizational and diplomatic skills but also to the majority support he enjoyed among the seceding Africans.

Relations between Jones and Allen inevitably cooled as a result of the split. They had become competitors; yet the reality of racism and the mounting defense of slavery among white Philadelphians ensured that Jones and Allen could not indulge in open recrimination, even had they desired to do so. They remained firm and trusted allies in racial uplift and defense, cooperating in the production of a pamphlet pushing back against attacks on black nurses and emergency workers during the yellow fever epidemic of 1793.


23 Jones was ordained despite the general rule requiring that Episcopal priests at the time know both Greek and Hebrew, a significant concession to the interests of the new African American congregation. The Episcopal Church did not formally recognize a separate African branch of the church, however, a weakness that became apparent especially after Jones's death in 1818, as the church was without an African American rector for the next sixteen years; even after William Douglass assumed the pulpit, the church did not regain its former prominence. “17 Rectors of the African Episcopal Church of St. Thomas: The Reverend William Douglass, Second Rector (1814–1862),” African Episcopal Church in the United States, http://www.aeccst.org/past_rectors.htm, accessed June 6, 2015; Douglass, Annals of the First African Church, 123–29. Jones is now listed in the Episcopal Church Prayer Book as a saint of the church. He is honored on Feb. 13, the date of his death; see “A Liturgical Calendar for the Year 2015,” The Lectionary Page, http://www.lectionarypage.net/CalndrsIndexes/Calendar2015.html#anchor2479251, accessed June 6, 2015.


25 Jones and Allen cooperated with each other frequently in social and political settings, although they had parted ways spiritually and institutionally. Allen clearly was more comfortable writing about their cooperative endeavors. He wrote four major addresses, including a well-known eulogy of George Washington delivered in Bethel Church; see “On Sunday the 29th Dec. 1799, in the African Methodist Episcopal Church. . . .,” Philadelphia Gazette and Universal Daily Advertiser, Dec. 31, 1799, [2], reprinted in “Eulogy of George Washington,” Richard Allen, The President's House in Philadelphia, USHistory.org, http://www.ushistory.org/presidentshouse/history/alleneulogy.htm, accessed June 6, 2015. The first of these addresses (published as a pamphlet) was a defense of the behavior of African Americans during the 1793 yellow
When Allen finally opened Bethel, he and his much smaller flock retained the full approval of Bishop Asbury, who ordained Allen the first African American deacon of the Methodist Church in 1799 and preached frequently at Bethel. But there was no ordained minister to administer the sacraments or perform marriages; Bethel relied instead on the white ministers of nearby St. George’s Church.26 The separate building was not the sanctuary from conflict that Allen and others had evidently hoped for (Figure III). Instead, the new space became a source and site of further struggle, especially given the reliance of black worshippers on white clergy. As tension mounted between Bethel and St. George’s over the next two decades, the role of law also increased commensurately. Allen and the African Methodists would have lost their battle for independence—for religious freedom—had they not had the legal benefit of a new kind of church organization. This legal status gave Allen and his congregants the capacity to resist white oversight.

In 1796 Richard Allen was persuaded by the ministers of St. George’s to incorporate, taking advantage of the new trend among religious organizations to acquire separate legal status for each church. Absalom Jones’s church had drawn up articles of incorporation several months earlier; his evident success and his legal action created both a template and a challenge for Allen.27

fever epidemic. Allen’s friend Dr. Benjamin Rush asked that black Philadelphians undertake the lion’s share of aid to victims of the epidemic in the mistaken belief that African heritage increased an individual’s resistance to the disease. Although it is possible that Allen actually wrote the pamphlet that Jones also signed (Allen wrote frequently, Jones almost not at all), the fact that the two religious leaders were seen publicly to be cooperating lent credibility to the document. At the same time, the evident benefits of cooperation outweighed whatever bad feeling survived the schism. A[bsalom] J[ones] and R[ichard] A[llen], A Narrative of the Proceedings of the Black People during the Late Awful Calamity in Philadelphia, in the Year 1793 (Philadelphia, 1794).


In early national America, religious communities set down legal roots, framing spiritual aspirations with corporate structure. Church incorporation was not a practice reserved for the white, the wealthy, or even the legally sophisticated. Among the first to embrace the corporate form were African Americans, whose legal rights were enlarged by the endeavor and who quickly generated distinct and powerful religious communities. The contrast was stark: the widespread (and, in the early national period, growing) social disfranchisement even of technically free African Americans, African congregations based on individual income) and African Methodists (the poorest group), see Nash, Forging Freedom, 266.

“Goal, in Walnut Street in Philadelphia.” This engraving shows the first Bethel Church building, a former blacksmith’s shop, as it was being moved in 1794 to 6th and Lombard Streets in Philadelphia, which is still the site of Mother Bethel African Methodist Episcopal Church. The current church is housed in a much larger Romanesque structure, which was erected in 1889. W[illiam] Birch & Son, The City of Philadelphia, in the State of Pennsylvania North America; as it appeared in the year 1800. Courtesy of the Library Company of Philadelphia. A color version is available on the OI Reader, Project Muse, and JSTOR.
on the one hand, was thrown into sharp relief by the rights accorded to
new religious corporations formed by these same people, on the other. In
religious life, black congregants could create and protect property and the
institutional structures of a vibrant communal identity. In this way, reli-
gious freedom provided black worshippers with powerful new legal rights
to property and institutional integrity, the concrete and durable building
blocks of independence.

Many people of modest means or even dire poverty became part of
such corporate forms through their religious practice. Throughout the
nineteenth century and into the twentieth, a church building and its
furnishings were often the most prized and valuable property for African
American groups. The seeds for such community investment were sown
among individual worshippers and their families in the early national
period, especially among more humble congregants. Allen’s flock included
some people, such as Allen himself, of middling means; many more
were very poor indeed, and some were enslaved. Race, poverty, and legal
disability combined in early national black life, making the legal stat-
ture acquired through incorporation even more valuable to new African
congregations.28

The Bethel articles were drawn up by Ezekiel Cooper, then assistant
minister at St. George’s and known as an opponent of slavery. The result-
ing document combined elements of white paternalism and black agency.
Cooper followed most of the new standard practices for incorporation of
Methodist churches: he designated lay trustees to control all temporal assets
of the church and also provided for church property to be held “in trust for
the religious use of the Ministers and Preachers of the Methodist Episcopal
Church.” But Bethel did have some unique powers, as well as some unusual
disabilities. Most articles of incorporation did not mention race, but
Bethel’s trustees were required to be “coloured persons” chosen by “male
coloured members,” and membership was available only to those of African
heritage. In addition, because there was no ordained preacher attached to
Bethel, it was placed under the spiritual supervision and direction of St.
George’s and its senior minister (known by Methodists as the “elder”).29

28 Dylan C. Penningroth makes the point about the value of church property for
the post–Civil War era, but it applies equally (and likely even more poignantly) for the
period covered here. On the relationship between church formation and cultural iden-
tity, see Frey and Wood, Come Shouting to Zion, 118–48; Albert J. Raboteau, Canaan
Land: A Religious History of African Americans (Oxford, 1999), 21–41; Will B. Gravely,
“The Rise of the African Churches, 1786–1822: Re-examining the Contexts,” in Afri-
can American Religious Studies: An Interdisciplinary Anthology, ed. Gayraud S. Wilmore
(Durham, N.C., 2000), 301–16; Penningroth, “Law and the Black Church, 1865–1940”
29 “Articles of Incorporation, African Methodist Episcopal Church (known as
Bethel Church),” Sept. 17, 1796, Letters of Attorney Book, 5: 458–65, art. 2 (“in trust”),
art. 6 (“coloured”), art. 7 (“male”), art. 10.
Bethel incorporated under an innovative 1791 Pennsylvania law that provided for the general incorporation of religious, charitable, and educational societies (but not for other endeavors commonly conducted through corporations, such as public improvements, municipal governments, and banks). The Pennsylvania legislature enacted the statute, according to the preamble, because legislators had spent so much of their time responding to requests from churches and related organizations for incorporation.\(^{30}\) From 1777, when the new legislature first met, until April 1791, when the general incorporation statute became law, seventy-seven special acts of incorporation were passed by the legislature, of which fifty were for religious organizations, usually church congregations.\(^{31}\) Over the next fifteen years, forty-one churches and one seminary incorporated across the commonwealth, together with dozens of libraries, academies, friendly societies, orphanages, and hospitals, most of which were religious in origin. Within African American communities, even fraternal orders not traditionally associated with religion, such as the Masons, were firmly tied to church life.\(^{32}\)

Especially important for purposes of this study, African American churches in Philadelphia became private spaces of political import, where freedom to worship was negotiated and defended. Articles of incorporation of both religious and secular societies were often accompanied by a constitution.\(^{33}\) These new corporations thus blended good works and spiritual aspirations with a distinct preference for constitutional as well as corporate governance. In many cases, an association’s constitution replicated its articles but added pledges of spiritual community, goodwill, mutual aid, and the like. The use of incorporation for benevolent societies gave them the imprimatur of state government, clearly an element of importance to such groups. The addition of a constitution ratified the notion that these organizations also contributed to political life—marrying religious and associational freedoms with republican governance.\(^{34}\)


31 This calculation is based on the table prepared for the Pennsylvania Constitutional Convention of 1837; see Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania. . . . (Harrisburg, Pa., 1837), 3: 213–368.

32 William Henry Grimshaw, Official History of Freemasonry among the Colored People in North America (New York, 1903); Winch, “A Late Thing,” 63.

33 “Amended Articles, African Methodist Episcopal Church,” Mar. 28, 1807, Letters of Attorney Book, 8: 1–5. Articles of incorporation for St. Thomas included a constitution; those for Bethel did not.

34 From this perspective, Nathan O. Hatch’s conclusion that “the specifics of polity and governance” were not crucial to religious revival among Protestants, which had more to do with “the incarnation of the church into popular culture,” overlooks important constitutive structures and mandates for lay governance in disestablished
Attention to the widespread incorporation of religious organizations fleshes out earlier studies of the corporation and also helps make sense of the legal history of Bethel Church, since incorporation was so crucial to its flourishing. The Pennsylvania statute allowed a broad range of religious groups to incorporate, conditioned on perfunctory state approval. The protections of incorporation were available to any “religious Society” that prepared a document outlining its name, “objects,” a plan for election of trustees, governing articles, and so on, and submitted it to the attorney general of the commonwealth. If all went well, the attorney general would review the document and send it on to the governor for his signature, and then it would be filed with the Master of the Rolls. The society would thenceforth be empowered to sue and be sued at law; to own and transfer property including goods, chattels, and real estate; and to receive donations and bequests, provided only that the total value of such property not produce an annual income of more than five hundred pounds. Similar general incorporation statutes were enacted by New York, Delaware, and New Jersey in the 1780s.35


35 “An Act to Confer on Certain Associations,” Apr. 6, 1791, chap. 27, sec. 4, Acts of the General Assembly of Pennsylvania, 40–43, esp. 41 (“objects”), 43. Earlier statutes in New York (1784), New Jersey (1786), and Delaware (1787) were restricted to religious societies. See “An Act to Enable All the Religious Denominations,” Laws of the State of New-York (“religious Society”); “An Act to Incorporate Certain Persons as Trustees in Every Religious Society. . . . ” Mar. 16, 1786, chap. 129, Acts of the Tenth General Assembly of the State of New-Jersey. . . . (Trenton, N.J., 1786), 255–58; “An Act to Enable All the Religious Denominations in this State to Appoint Trustees. . . . ” Feb. 3, 1787, in Laws of the General Assembly of the Delaware State. . . . (Wilmington, Del., 1787), 10–14. Pennsylvania’s act, therefore, was the first to provide for general incorporation of
Instead of an individual owner or owners, church property could now be vested in a corporation and thus would survive the deaths of individuals. This was a powerful engine for institutional stability and longevity. At the same time, however, state legislatures demanded something in return: a concession from these corporations to the interests of government. The price exacted by such general incorporation statutes was what came to be known as “trusteeism”—the election of trustees by the organization’s members, with participation in such elections frequently limited by legislative mandate to members who were “Male Person[s] of full Age.” Trustees were then incorporated as a group, vested with all the property of the newly incorporated society, and charged with the ongoing management of the church’s temporal affairs. Lay control and popular elections meant that religious corporations acquired democratic bona fides as well as legal rights.36

Within a generation, this legal framework became the standard across the United States, creating a new system of religious property and polity. Religious corporations were replicated in thousands of separate bodies, but with substantially identical property rights and roughly comparable governing structures, both of which were imposed by statute. This relative uniformity rendered such institutions “legible” to governments—their legal status and rights were interchangeable, whether they were separatist African, Catholic, Congregationalist, Jewish, or Baptist, and whether they had parishioners of one or multiple races. In Pennsylvania Methodists, Presbyterians, Lutherans, German Reformers, Jews, Catholics, and members of other religious movements utilized the new power to incorporate. Thus a novel corporate law emerged as religious corporations fed into and were themselves caught up in the great revivals of the late eighteenth and early nineteenth centuries.37

The significance of incorporation for Bethel and its founder was immense. As far as we know, the incorporations of St. Thomas and Bethel Church in 1796 were the first undertaken on behalf of African American congregations in the United States, creating the first corporations nonprofit institutions in a form that we would recognize today. Other states (and eventually the federal government) built on this model. David Hammack, ed., Making the Nonprofit Sector in the United States: A Reader (Bloomington, Ind., 1998), xv–xvi; Harry S. Stout and D. Scott Cormode, “Institutions and the Story of American Religion: A Sketch of a Synthesis,” in Sacred Companies: Organizational Aspects of Religion and Religious Aspects of Organizations, ed. N. J. Demerath III et al. (New York, 1998), 62–78.  
controlled by African Americans in the country. Each of these churches still exists, a triumph not only of spirit and determination but also of the durability of corporate status. With a stroke of the pen, Pennsylvania governor Thomas Mifflin gave life to a nascent form of civic and legal power for Richard Allen and his African Methodist Church when he endorsed Bethel’s articles of incorporation on September 12, 1796.38

Such power contained danger as well as opportunity for those who wielded it. For the first decade, the Bethel articles of incorporation apparently posed no significant problem for Allen and his congregation. In the early years of the nineteenth century, however, relations deteriorated between the various elders of St. George’s Methodist Church and the trustees of Bethel. As the broader Methodist Church grew more tolerant of slavery and racism, Bethelites came to distrust the supervision that had been given to the elder under the initial articles. In 1805 a new Methodist minister from Virginia, James Smith, arrived at St. George’s just as the mainstream Methodist Episcopal Church scaled back its stance on antislavery in response to increasing pressure from Southerners.39 The Reverend Smith brought proslavery principles north with him; he was determined to subdue the independent Bethelites. When Allen informed the new minister that he could not dictate to Bethel because “the house was ours,” Smith rebuffed him and demanded the keys to the church. In response, Allen and other church leaders consulted with a lawyer. To their dismay, they learned that indeed the Methodist Church actually owned the property, based on the trust clause in the articles.40

Scholars and contemporary accounts disagree about whether the articles had been designed to trick Allen and his flock.41 Placing the property

38 The two Pennsylvania corporations are the earliest African-controlled institutions to incorporate by five years; the Zion Society in New York (officially called the African Methodist Episcopal Zion Church) was incorporated in 1801 and later that year signed an agreement with the Methodist Church, ceding control over its spiritual life as well as its physical property. The relationship between Zion and the broader Methodist polity proceeded peacefully for almost twenty years. Zion only seceded formally in 1820. Andrews, Methodists and Revolutionary America, 151–53.

39 For the new minister, see Mathews, Slavery and Methodism, 23–29.

40 Allen, Life Experience, 32 (quotation). A young Horace Binney may have been the lawyer in question, as he argued later on behalf of Bethel, although there is no documentation of the identity of the lawyer and no mention of Bethel in Binney’s papers or memoirs.

41 Commentators are divided over whether Ezekiel Cooper in fact deceived the Bethelites when he designed articles that ensured Bethel was firmly under the control of St. George’s and the broader Methodist Church. Carol V. R. George argues that the articles replicated standard provisions in such documents for Methodist churches. George, Segregated Sabbaths, 66. But Daniel A. Payne believed that naive parishioners were deceived when Cooper offered to draw up the articles to save money, and then they learned later that “he had done it in such a manner as to entirely deprive them of the liberty they expected to enjoy.” See Payne, History of the African Methodist Episcopal Church, 5. Allen later said that they had been “taken in” and the property had been
in trust for the Methodist Church was a standard provision of such incorporations. Yet St. Thomas had no such provision in its articles of incorporation, which had been drafted to cement its affiliation with the Episcopal Church, a denomination that also generally included trust clauses. St. Thomas was allowed to elect its own minister, and there was no mention of the church and its underlying land being held in trust for the larger denomination.

The same lawyer who delivered the bad news about ownership of the church building, however, told Allen that he could change the articles of incorporation, as long as two-thirds of all members endorsed the plan. In other words, the corporate form allowed a degree of democratic self-rule and a capacity for resistance to authority, a potentially revolutionary concept in much of religious life. White Methodists, themselves generally untutored in corporate law, now learned unwelcome lessons about the pliability of the corporate form at the hands of Allen. Armed with new legal knowledge and advice, he fought back against St. George's, deploying the articles to call a meeting of the membership and then amending the original document with the required two-thirds supermajority. The result was the African Supplement of 1807, which boldly asserted the power of the lay trustees to refuse any minister sent by the white elder of St. George's, to appoint their own exhorters and lay preachers, and to manage the property as they saw fit. The Supplement was duly submitted to state officials and the governor, who signed off on the new document (Figure IV).

consigned to the white church by the articles of incorporation. See Allen, *Life Experience*, 32. Richard S. Newman speculates that Allen adapted strategically to the best deal he could get. Clearly, Allen believed that Cooper had undermined Bethel’s independence, saying that he learned from a lawyer only in 1806 that “our property was gone” under the terms of the original articles. See ibid. (quotation); Newman, *Freedom’s Prophet*, 23, 131–34. The turn of events described by Allen and his consultation of a lawyer in expectation of vindication undermine the claim that Allen was simply being strategic when he approved the original articles in 1796.

Trust clauses remain controversial, even in Episcopal denominations. For recent litigation involving the enforcement of trust clauses against dissenting congregations in the Episcopal Church, see Falls Church v. Protestant Episcopal Church, 285 Va. 651 (Va. 2013), *cert. denied*, 573 U.S. __, 134 S. Ct. 1513 (2014); All Saints Parish Waccamaw v. Protestant Episcopal Church in the Dioceses of South Carolina, 385 S.C. 428 (S. Car. 2009).


“Handwritten notes,” African Church folder, box 6, folder 227a, Miscellaneous Section, Edward Carey Gardiner Collection, PASP, HSP. “We asked him [our counsel] if it [the articles] couldn’t be altered; he told us if two-thirds of the society agreed to have it altered, it could be altered. He gave me a transcript to lay before them. . . . My dear Lord was with us. . . . and [we] got it passed unanimously, before the elder knew anything about it.” See Allen, *Life Experience*, 32; “Amended Articles, African Methodist Episcopal Church,” Mar. 28, 1807, Letters of Attorney Book, 8: 1–5.

Bishop Asbury apparently accepted the Supplement, telling Allen that he understood Bethel’s desire for as much independence as possible under Methodist rules. He endorsed any change, subject only to the caveat that it must be consistent with Methodist Church governance and the denomination’s *Book of Discipline*.46

That, of course, was the question. Did trustees have the power to renegotiate the relationship between their local churches and a broader denomination? Distant hierarchies might well be less solicitous of the interests of those on the ground, and trustees in such situations would naturally seek to broaden their own power. Given the unprecedented nature of such corporations and the fact that American law in all areas was still in its infancy, the legitimacy of such an amendment was debatable. To be sure, the state’s apparent endorsement of the Supplement argued in its favor. Pennsylvania

courts might have sustained the Supplement against a legal challenge in 1807. Yet such power to amend fundamental aspects of governance became a subject of fierce debate.

In the early nineteenth century, trustee rebellions such as Bethel’s occurred in many religious communities. Local groups with fast-growing congregations often chafed at older, more staid hierarchies and their rules. Frequently, fission was the result. The addition of separatist African congregations to the equation raised the stakes for many players, however, especially because religious societies for African Americans became the organizational tool for much of their economic, political, and social life. By 1807, when the Bethelites hired a lawyer to draft the African Supplement, black Methodists had grown in number and voice; they comprised almost 40 percent of all Methodists in Philadelphia.

The squabbling over control of Bethel lasted for almost a decade and featured internal betrayals as well as external attacks. For most of that period, the standoff meant that Bethel actually functioned independently, with only intermittent interference from St. George’s. In 1815, however, the white elders retained lawyer Joseph Hopkinson, then serving in Congress as a Federalist, who counseled them that the African Supplement was invalid because it was a wholesale “subversion” of the articles, rather than a simple amendment. Hopkinson advised St. George’s to “exercise their rights and powers as originally given, as if no Supplement” had ever existed.

Hopkinson also represented Robert Green, a disaffected former member of Bethel, who had been expelled for violating the Book of Discipline when he and another parishioner sued a third member. Thus began a long and complicated series of battles between Bethel and St. George’s,


48 Minutes of the Annual Conferences of the Methodist Episcopal Church, for the Years 1773–1828 (New York, 1840), 1: 183. In 1820, after the formation of a separate African Methodist denomination, the number of black Methodists in the mainstream church had shrunk to 3 percent. See ibid., 2: 345. Maryland also witnessed a drain. Almost half of all Methodists in the state had been of African heritage in 1810; by 1830, only a third were black, while the numbers of AME members had grown significantly. Frey and Wood, Come Shouting to Zion, 152.

49 “Handwritten notes,” African Church folder, box 6, folder 227a, Miscellaneous Section, Gardiner Collection, PASP; HSP (quotations); Maxwell Bloomfield, “Joseph Hopkinson,” American National Biography, http://www.anb.org. Hopkinson evidently relied on an older English case, which held that municipal corporations were closely bound by their charters. This approach was critiqued by Joseph K. Angell and Samuel Ames in the first American legal treatise on the law of corporations. They argued that such a rule could not credibly be extended to the United States. See Angell and Ames, Treatise on the Law of Private Corporations Aggregate (Boston, 1832), 370–71.
often conducted through intermediaries, but always circling around the Bethelites’ claim to self-governance and control of church property. Green sued Bethel, clearly with the support of St. George’s, arguing that his expulsion had been wrongful. The supreme court of Pennsylvania agreed, but not on the grounds that the African Supplement in general, or its claim of the right to expel members in particular, was invalid. Instead, the court held that Bethel had not established that it had followed the rules laid down within the church for a proper expulsion. Although the justices did not cite the Supplement, Bethel’s leaders had not in fact followed their own amended articles, which would have required a majority vote of trustees to expel Green. Bethel claimed that a “select number” of the society had taken the vote, with no evidence that they comprised the requisite majority. The judge in the case granted a peremptory mandamus (a direct order from a court) to reinstate the troublesome Green. Clearly exulting in his victory, Green (perhaps on the advice of Hopkinson) took out a notice in the local newspaper of record, announcing that he had been “restored” to his rightful place as a member of the congregation and trustee of the corporation and warning Bethel’s leaders “not to do business without me.” The conflict with Green festered for the next decade, appearing in court in several different guises. At some key points, Allen and Bethel were the victors; at others, Green inflicted painful losses.

Such legal conflict, frequently combined with confusion about exactly what powers were given to trustees, became ubiquitous by the 1820s. Disgruntled congregations around the country, including Catholics (in Philadelphia, New Orleans, Charleston, and New York), Baptists, Presbyterians, and others, fought back against restraints imposed by central authorities. Trustees in these varied places and denominations claimed authority for themselves against traditional religious hierarchies. The lay control mandated under state statutes for


51 Green v. African Methodist Episcopal Society, 1 Serg. & Rawle, 254, 255 (Pa. 1815), 254 (“select number’’); Robert Green, “Notice,” [Philadelphia] Poulson’s American Daily Advertiser, Jan. 18, 1815, 2 [“restored’’], Jan. 20, 1815, 1 [“not to do’’]. I owe this valuable citation to an anonymous reader for the William and Mary Quarterly and thank that reader formally here.

incorporated religious societies gave these rebels new tools, which they used even before the case law on the question endorsed their actions. Incorporation thus was widely interpreted by local church leaders as giving them considerable autonomy, even if their church was affiliated with a central denomination.

In many of these cases, debates over race and/or slavery underlay the disputes, complicating and deepening disagreements over doctrine while also extending the power of lay governance through the development of case law in individual conflicts. African American congregations were among the most vocal. In Pennsylvania trustees were granted substantial latitude in an 1820 state supreme court opinion holding that the trustees of St. Thomas African Episcopal Church could restrict who voted to elect a minister, even though such a power was not included in the charter. Here, as elsewhere in the private law of religion, African churches often made new law. The most vulnerable, predictably, turned to courts seeking support for the ability to ward off threats from more powerful groups.

But that local power also nurtured schism, as congregations separated from larger and more centralized denominational bodies. Frequently a split was the result of resistance to the appointment of a minister that the denomination tried to force on a local church, or because a local church declared it had never ceded the power of appointment in the first place. Trustees controlled the “temporal” aspects of the corporation—they held title to all property, including bank accounts and real estate, unless the articles of incorporation said otherwise. For Bethel, the 1796 articles of incorporation had explicitly vested ownership of the church building and the land on which it stood in the central denomination, but control of the day-to-day affairs of the church remained with the trustees. Thus the two groups were at loggerheads, and the African Supplement was Bethel’s attempt to rewrite the articles unilaterally.

The problem of authority was particularly fraught in African American congregations but extended throughout early national religious communities. Allen and his allies rejected oversight in ways that were soon replicated in other churches and denominations, but the Bethelites were either the first or among the first to litigate such questions. Conflict between more liberal trustees and orthodox Calvinists became commonplace across New England, for example, as well as in Pennsylvania, and the power of trustees grew steadily as the law developed. By the second quarter of the nineteenth century.

53 The trustees of St. Thomas had enacted a bylaw excluding members who were more than two years in arrears on pew rents from votes to call ministers. They were sued unsuccessfully by the state for violating their articles of incorporation. See Commonwealth v. Cain, 5 Serg. & Rawle 510 (Pa. 1820). Binney appeared in this case for St. Thomas and won another victory.
century, courts increasingly allowed a majority of trustees to appoint ministers of their choosing. One jurisdiction even upheld the decision of a majority of trustees to formally disaffiliate from one denomination and join a competing denomination.54

In Pennsylvania, only a few years after the Bethel situation blew up, Catholics entered a prolonged period of turbulence, which featured the same issues of local control that galvanized Bethel’s trustees. One court upheld the power of the Catholic bishop of the Philadelphia diocese to appoint a minister but in the same opinion also held that the trustees could decide whether to pay the appointed priest, so that the power of appointment became more theoretical than real. Even then, the state legislature was outraged by the court’s decision in favor of religious hierarchy and enacted legislation providing for local control over the hiring of ministers in all incorporated religious societies. The governor vetoed the legislation, but Catholics and trustees in other denominations still refused to accept ministers who were not to their liking. Eventually, the Catholic bishop in Philadelphia gave up. By 1822 “trusteeism” had become the only heresy in the Catholic tradition to emanate from America.55

Protestant episcopal denominations (that is, those with bishops) such as the AME Church also struggled to maintain traditional structures of authority. Within the broader Methodist Church, a revolt by laypeople who sought a vote in central governance moved the church to explain that its bishops were not autocratic rulers but simply benign “superintendent[s].” Episcopal Church founder William Smith assured Episcopalians that the new church structure was not really hierarchical. Instead, it was

54 For examples of conflict, see McMillan v. Birch, 1 Binn. 178 (Pa. 1806); Riddle v. Stevens, 2 Serg. & Rawle 537 (Pa. 1816); Trustees of Dartmouth College v. Woodward, 17 U.S. 518 (1819); Baker v. Fales, 16 Mass. 487 (Mass. 1820); William E. Nelson, Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society, 1760–1830 (Cambridge, Mass., 1975), 127–29. For courts allowing appointments by trustees, see Presbyterian Congregation v. Johnston, 1 Watts & Serg. 9 (Pa. 1841); Miller v. Gable, 2 Denio 492 (N.Y. 1845). In Vidal v. Girard’s Executors, the U.S. Supreme Court upheld a will that banned all men of the cloth from a planned school for orphans, arguably allowing the power not just to choose but also to exclude entirely. Vidal v. Girard’s Executors, 43 U.S. 127 (1844). For changing denominations, see Petty v. Tooker, 21 N.Y. 267 (1860).

representative, with a bishop functioning just like a local parish priest (with the added power of ordination), who represented local interests in synods. These battles and attempts to harmonize episcopacy with democracy showed how clearly the local control vested in trustees troubled new as well as long-standing hierarchies, and how much lay trustees welcomed the opportunity to throw off centralized restrictions on their power.

The African Supplement was an early example of just such a rebellion, and eventually it met stiff resistance from the Methodist hierarchy. At the urging of their lawyer and the increasingly conservative Methodist conference that oversaw the Philadelphia region (and that owned the Bethel Church building, according to the 1796 articles of incorporation), the St. George’s trustees acted to assert control over the property. In a stunning move, they offered the church for sale at a sheriff’s auction in June 1815 (Figure V). Evidently, they relied on the trust provision contained in the original articles to sustain their decision, as if the African Supplement, as their lawyer said, had never been drafted or submitted to the state in the first place.

For Bethel’s African Methodists, the prospect of such a sale was devastating. Unfortunately for them, however, the African Supplement, which claimed control over the appointment of ministers, did not actually assert ownership of the land or building. This oversight was no doubt unintentional, more reflective of lack of legal expertise than of any desire to leave ownership in white hands. Indeed, the law of corporations was growing so rapidly (thanks to the litigiousness of religious societies) that the confusion is quite comprehensible. The Supplement did declare that Bethel’s trustees could now mortgage or sell property owned by the corporation without the consent of the Methodist elders, but it did not address the trust clause placed explicitly on “Bethel Church” in the original articles. Given that under the clause Bethel actually was owned by the denomination, the Supplement did not accomplish one of its prime objectives.

58 The notice of the sale is available in the African Church folder, box 6, folder 227a, Miscellaneous Section, Gardiner Collection, PASP, HSP.
59 “Amended Articles, African Methodist Episcopal Church,” Mar. 28, 1807, art. 1, Letters of Attorney Book, 8: 1–5 (“Bethel Church”): “It is hereby provided and declared, that so much of the fourth Article of Association as requires the consent of the Elder for
This notice advertised the sale of Bethel Church at auction in 1815, an underhanded strategy undertaken by the white elders of St. George’s Methodist Church to reestablish control over the increasingly restive Bethelites. African Church folder, box 6, folder 227a, Miscellaneous Section, Edward Carey Gardiner Collection, Pennsylvania Abolition Society Papers, Historical Society of Pennsylvania, Philadelphia. Courtesy of the Historical Society of Pennsylvania.
St. George's Church's attempt at obliterating Bethel and its congregation backfired nonetheless. Richard Allen confounded his black and white enemies by attending the auction and outbidding the crowd. By 1815 he had built up substantial resources through various commercial enterprises and shops, and he wagered all of them on Bethel's survival. He paid the astronomical sum of $10,125 for the church and its surrounding land. Rumors that Allen had acquired the funds illicitly were carefully stoked by his enemies. His main opponent at the auction was Robert Green, who had recently won the suit against Bethel, surely a plant by the white elders of St. George's. The following week, a note from Joseph Hopkinson to the sheriff inquiring whether Allen had paid was promptly answered. The deed of sale had already been prepared and the money was in hand.60

Rashly, the white Methodists had sold the property and thus relinquished any claim to the operation of a trust in their favor. As a legal matter, the purchase of the underlying property, together with the provisions of the African Supplement that controlled the appointment of ministers and governance of the congregation, finally gave Allen and the Bethelites independence from St. George's and its elders. As a lawyer would put it, there was no longer a "cloud" on the title to Bethel Church and its land.61

When St. George's elder Robert Burch arrived at Bethel to preach in December 1815, therefore, he was trespassing. The Reverend Burch was temporarily intimidated when he learned that congregants were prepared to use "deadly weapons" to prevent his ascendance to the pulpit. In response, Burch filed suit against Bethel at the Pennsylvania Supreme Court, claiming that the African Supplement was invalid and that the Methodist General Conference asserted its right to send preachers to

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60 According to Allen, Green was sent by St. George's expressly to bid for Bethel and subvert the independence movement. R[ichard] Allen to Daniel Coker, in N[oah] C[alwell] W. Cannon, A History of the African Methodist Episcopal Church . . . (Rochester, N.Y., 1842), 24. In 1823 a pamphlet written to defend Allen against charges of financial misdealing in the purchase and sale of the church (among other abuses) responded to a leaflet, which has not survived, that had made its way into Bethel leaders' hands. Allen and Jonathan Tudas, The Sword of Truth; or, A Reply to Facts Relative to the Government of the African Methodist Episcopal Church Called Bethel (Philadelphia, 1823); "Handwritten notes," African Church folder, box 6, folder 227a, Miscellaneous Section, Gardiner Collection, PASP, HSP.

61 In legal terms, a "cloud" on title is an encumbrance that casts doubt on true ownership and thus prevents a putative owner from selling or mortgaging the property. See Henry Campbell Black, Black's Law Dictionary, 6th ed. (St. Paul, Minn., 1990), 255.
an affiliated church. But apparently he could not wait for the court’s decision—Burch brazenly strode into Bethel during Sunday services on December 31. There, he was confronted by a wall of outraged congregants and never reached the pulpit. The case he had filed two weeks before the Sunday incident was heard on January 11, 1816, with the noted litigator and antislavery activist Horace Binney appearing for Bethel. If the legal advice given to Bethel early on had been unsophisticated or ineffective, the presence of the silver-tongued Binney now meant that the Bethelites had the best representation available.62

Binney’s arguments, which have not been preserved, secured Bethel’s first major legal victory. Presumably on the strength of the African Supplement, the appeal of St. George’s was denied on the grounds that Bethel could not be required to accept a preacher that the congregation opposed. Allen and his congregants now had court-endorsed power over the calling of ministers, as well as title to the property and control over membership. They set about cementing the break by establishing a new denomination, the African Methodist Episcopal Church—unencumbered by white supervision of any kind and with Allen at the helm as the denomination’s first bishop.63

Having been the victim of carefully drawn legal documents, Allen learned the hard way to keep a sharp eye on all articles of incorporation. He had traveled a long road, from an object of law as a boy in slavery, to an untutored signatory of crippling articles of incorporation in 1796, to a participant in a clumsy and only partially effective attempt at redress in 1807. Thereafter, Allen took charge, but always with an eye to law’s power. His own stature rested on the legal as well as the spiritual standing of the church he founded and led.

**This independence came at a price.** Bethel was riven by dissent. Challengers were emboldened by the pliability of the corporate form,


63 On the result in the case and the turbulent events at Bethel that preceded the judgment by only a few days, see Daniel Coker, “Sermon Delivered Extempore in the African Bethel Church in the City of Baltimore. . . . ,” in *A Documentary History of the Negro People in the United States from the Colonial Times through the Civil War*, ed. Herbert Aptheker (New York, 1951), 67–69; Richard Allen to Coker, Feb. 18, 1816, in Cannon, *History of the African Methodist Episcopal Church*, 23–25. Apparently, no new articles of incorporation were filed, although the inclusion of new episcopal districts was noted when added in the official records. See Wright, *Encyclopedia of the African Methodist Episcopal Church*, 334.
as Richard Allen had been before them. Fracture became the flip side of organization, and malcontents confounded African Methodists, just as they had confounded the elders of St. George’s and the larger Methodist denomination. In this way, legal form and spiritual life blended and formed a new phenomenon—popular religious institutions in disestablished polities. The resulting structures entrenched schism. The lay control that was part of incorporation nurtured dissent and dissenters, who went on to form their own incorporated institutions.\textsuperscript{64}

Even after Allen’s victory, internal relations were affected by the new legal world, making governance in the AME church difficult and contentious. Congregants were now subject to the oversight and discipline established by Bethel, which were drawn directly from the Methodist Book of Discipline. Allen had never rejected Methodist principles; instead, he had rejected as racist and thus unchristian the discipline imposed by white elders on African Americans. Like many other early national Methodists, however, Allen was no social radical. He was dedicated to freedom of faith and person, but also to order and respectability. His injunctions for sexual purity, sobriety, prompt payment of debts, work on behalf of the church, and more all placed demands on congregants. Church trials of wayward members imposed respectability in domestic and personal life.\textsuperscript{65} The

\textsuperscript{64} By 1820 the United States Supreme Court had extended the protections of private law to incorporated bodies—that is, Bethel and St. Thomas African churches, because they had incorporated in 1796, were now insulated against being treated as political entities by a hostile state legislature. By virtue of incorporation, the Supreme Court held in a case involving a religious dispute over the curriculum and student life at Dartmouth College, the state of New Hampshire had created a private space that the school and other eleemosynary corporations now occupied. Ministers, trustees, and other members of religious societies were not converted into government actors (although they received significant legal rights and had to accept the state’s rules for governance) once they were incorporated. Instead, they were protected from direct political intervention, even though subject to general legislative regulation. Trustees of Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819). See also Trustees of Philadelphia Baptist Association v. Hart’s Executors, 17 U.S. (4 Wheat.) 1 (1819).

\textsuperscript{65} According to the records of the church, such trials were often undertaken at the behest of the “mothers of the church.” Erica Armstrong Dunbar, \textit{A Fragile Freedom: African American Women and Emancipation in the Antebellum City} (New Haven, Conn., 2008), 64–69 (quotation, 64), 50–51, 110–19. Women exhorters, however, were sharply confined in their ministries, although Allen and other male church leaders conceded perforce that they could be powerful witnesses for African Methodism. Jarena Lee, whom Allen had discouraged from preaching in public, won his permission to preach as a traveling exhorter only after she spoke extemporaneously in a Bethel service, moving congregants and sustaining Allen’s authority. Lee, \textit{The Life and Religious Experience of Jarena Lee, a Coloured Lady, Giving an Account of Her Call to Preach the Gospel}. . . . (1836), repr. in \textit{Sisters of the Spirit: Three Black Women’s Autobiographies of the Nineteenth Century}, ed. William L. Andrews (Bloomington, Ind., 1986); David W. Wills, “Womanhood and Domesticity in the A.M.E. Tradition: The Influence of Daniel Alexander Payne,” in \textit{Black Apostles at Home and Abroad: Afro-Americans and the Christian Church Mission from the Revolution to Reconstruction}, ed. Wills and Richard
bonds of community often chafed, therefore, especially for those who ran up against Allen’s strict enforcement of “moral uplift.”

Allen and his fellow trustees also adopted the Methodist control of property that had made relations with St. George’s unbearable. Evidently, he believed that holding African American church property in trust for an African denomination—like having Bethel’s own trustees, as opposed to white elders, administer behavioral discipline—was essential to a truly Methodist connection and also unobjectionable because it did not place black property under white control. The AME’s insistence on control of local church property led to friction that replayed the concerns that had so disturbed Bethel in 1815.

Predictably, these power struggles were conducted through law and legal argument. By 1820 there were some forty separate congregations in the AME Connection, as it was called, in Delaware, Maryland, New York, and South Carolina, as well as Pennsylvania. Yet this growth was also marked by conflict and failure, as a breakaway church founded by Allen’s nemesis, Robert Green, demonstrated. Green had been one of the original Bethel incorporators in 1796, as well as a member of the board of trustees who signed the African Supplement in 1807. By 1815, clearly, Green’s successful lawsuit and then his presence at the Bethel auction revealed dedicated opposition to Allen. Green’s defeat at the auction was followed by a victory only a few years later, after he and other dissenters walked out of Bethel and opened a rival church just down the road. In 1820 Wesley Church, as it was soon called, attracted about half a dozen Bethelites, several of whom had been scourged by Allen’s disciplinary regime for illicit sex (one even fathered a child with a white woman and apparently supplied her with an unsuccessful abortifacient) and other misdeeds.

Green and his allies did not go quietly. They charged that Allen had been guilty of outright fraud (for example, selling the Bethel Church building to the congregation at an inflated price) and financial

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67 “Connection” was the term used by early Methodists to describe their affiliation to the doctrines and discipline of the church. For the importance of “connection” to Methodists, see Wigger, American Saint, 6.

68 For opposition to Allen, see Payne, History of the African Methodist Episcopal Church, 7–8; Newman, Freedom’s Prophet, 240. Although no scholars have noticed Green’s earlier importance to Bethel, Green was keenly aware of the old allegiance gone sour. With apparent chagrin, Bethel leaders noted that Wesley Church was located only ninety feet from Bethel. George, Segregated Sabbaths, 98; Newman, Freedom’s Prophet, 210. For Allen’s defense against the charges of his critics, see Allen and Tudas, Sword of Truth, 3–4; Newman, Freedom’s Prophet, 211–27.
mismangement (not keeping the church books accurately and hiding his own misdeeds in them). These claims, rooted in what would soon become standard legal arguments about the conduct of corporate church governance, also revealed the vulnerability of such forms to fracture. Although the Wesley group was comprised primarily of poorer, younger men who resented Allen’s harangues on uplift, the presence of Green and at least one other leading Bethelite, together with their trenchant charges of fraud and financial mismanagement at Bethel, signaled their own growing mastery of legal weapons, as well as spiritual fission and class conflict.69

Calling themselves trustees of the new church, this group also challenged Allen indirectly. They affiliated Wesley Church with a brand-new denomination, the African Methodist Episcopal Zion Church, or AMEZ, known popularly as the Zionites. Zion Church of New York City, like Bethel in its early years, was founded as a separate congregation within New York’s Methodist Conference but grew increasingly restive during the late 1810s, replaying on a smaller scale the Philadelphia experience of African Methodists. Just as Wesley emerged as a local challenge to Bethel’s dominance, the New York Zionites also rejected Allen’s leadership.

What must have looked like a natural alliance between the two branches of African Methodism went sour, in part because the Zionites had the capacity to incorporate too. They did not need Allen or his denomination to achieve independence. In 1819 the New Yorkers initially negotiated with Bethel about joining the AME but then claimed that Allen had deceived them. As bishop of the AME, Allen had ordained one of the New York members, who then left the Zionites and established an AME church in New York. Justifiably or not, the Zionites blamed Allen, saying that he had tricked them into trusting him and had then turned one of their own into a competitor. New Yorkers charged that the more established Philadelphia contingent was interested in consolidating its power rather than in uniting African Methodism.70 They rejected the AME’s offer of affiliation, which would have subjected them to substantial spiritual oversight by the bishop himself, as well as legal constraints on property ownership imposed through trust clauses in articles of incorporation. Allen had urged the Zionites to “put [their] church under the government of his Conference,” but they formed their own New York corporation in 1820 under a statute similar to Pennsylvania’s.71

69 The Wesley congregation included a shoemaker, a cartman, and a coachman, all respected crafts. Allen and Tudas, Sword of Truth, 14–16.
70 George, Segregated Sabbaths, 99–103.
71 Christopher Rush, A Short Account of the Rise and Progress of the African Methodist Episcopal Church in America. . . . (New York, 1843), 46 (quotation); Newman, Freedom’s Prophet, 215–16.
The conflict continued, however, as Allen was determined to bring the Zionites into line. He saw an opportunity close to home in Philadelphia when Wesley ran into trouble, both financially and in terms of church unity. In early August 1822, Allen welcomed a delegation from Wesley, offering them the same terms he had demanded from the Zionites: if “united” with Bethel, Wesley would retain some aspects of control, but the property would be entrusted to the denomination and spiritual oversight would reside with Bethel. The next day, Allen went in state to Wesley to deliver a “short sermon” to welcome the congregation into the AME fold. The result was not the welcome Allen apparently expected. Instead, there was a brawl on the church steps; Allen’s opponents among the Wesleyites, especially former members of Bethel, punched, kicked, screamed at, and eventually even spat on him. In essence, Allen’s forcible entry into Wesley replayed the Reverend Robert Burch’s incursion into Bethel in December 1815. Both were calculated displays of power in an attempt to achieve dominance. And once again, the conflict was expressed most powerfully in legal terms.

Wesleyites filed suit against both Allen and Bethel trustees, charging them with assault and attempted theft of Wesley Church and its land. Although no records of the trial or verdict have survived, contemporary accounts establish that in early 1824 the Mayor’s Court found against Allen and Bethel. Just as Bethel had been victorious over Burch, so Wesley triumphed over Allen, as Green and his allies had learned and profited from the lessons that had informed Bethel’s move to independence less than a decade earlier.

All of which brings us back to the power of incorporation and the pliability of the corporate form. For many African Americans, and for much of American history, religious corporations held land and church buildings that were the most valuable property such communities had. The corporate form made this possible, but it also empowered parishioners to calve into smaller churches, unless articles of incorporation were so narrowly drawn that they curbed the division that tended to follow internecine quarrels. Even then, nothing could stop a Zionite from changing sides and opening an AME church right next door to his former congregation. The AME denomination still inserts trust clauses into affiliation agreements, stipulating, just as the 1796 articles did, that the trustees of an individual church hold the land and church building in trust for the central denomination. Among many religious organizations, figuring

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73 Wesley, Richard Allen, 147–48; George, Segregated Sabbaths, 97–99.
75 Penningroth, “Law and the Black Church,” 26–28. Some black churches overcame racial restrictions on property ownership during the Jim Crow era, based on the...
out how to exploit yet survive incorporation entailed a long, hard series of lessons in the law; many found that the costs, like the benefits, were enormous.

What does this story of incorporation add to our picture of early national American religious life, especially to the history of African American religion? For one thing, scholars have probed the outpouring of enthusiasm and creativity that marked the religious revivals of the late eighteenth and early nineteenth centuries in America, but we have overlooked the mechanisms through which awakening was anchored and supported in law. Indeed, the growth and influence of religious corporations must also be seen as a constituent part of the culture of conversion, revival, and the formation of new religious communities. The recovery of this legal history is crucial to understanding, in particular, the development and spread of African separatist Christianity, a key component of the Second Great Awakening.

Thus, law emerges as a central focus of the black church from its earliest days, both as a generative force in church formation and as a uniquely valuable implement in the hands of African American religious leaders. The precedents produced by Bethel’s litigation against dissident members and St. Thomas Church’s suit to control internal governance set standards that endured. They were applied to many different organizations and across jurisdictions. These elements of secular citizenship as well as religious practice rested on a legal foundation that secured for black churches a stature that their congregants did not enjoy outside sacred spaces. The storied power of “the black church” emerged in a notion that religious corporations, as artificial legal persons, have no race. People’s Pleasure Park v. Rohleder, 109 Va. 439 (1908); William R. Ming Jr., “Racial Restrictions and the Fourteenth Amendment: The Restrictive Covenant Cases,” *University of Chicago Law Review* 16, no. 2 (Winter 1949): 203–38, esp. 204 n. 5. For affiliation agreements, see African Methodist Episcopal Church v. Independent African Methodist Episcopal Church, 281 S.W. 2d 758 (Tex. App. 1955); Sandy Dwayne Martin, *For God and Race: The Religious and Political Leadership of AMEZ Bishop James Walker Hood* (Columbia, S.C., 1999), 51–53.

76 Green v. African Methodist Episcopal Society, 1 Serg. & Rawle 254 (Pa. 1815), which held that the expulsion of a member must conform to the procedures laid out in a society’s articles of incorporation, was followed in other states. For Illinois, see Nelson v. Board of Trade, 58 Ill. App. 399 (1893); for Michigan, see Bear v. Heasley, 98 Mich. 279 (1893); for Minnesota, see State ex rel. Boldt v. St Cloud Milk Producers’ Assn. et al., 200 Minn. 1 (1937); for New York, see People ex rel. Meads v. McDonough, 8 A.D. 591 (N.Y. App. Div. 1896); for Texas, see Manning v. San Antonio Club, 63 Tex. 166 (1884); for Wisconsin, see State ex rel. Gill v. Common Council of Watertown, 9 Wisc. 254 (1859). Commonwealth v. Cain, 5 Serg. & Rawle 510 (Pa. 1820), which sustained the right of the trustees of St. Thomas to set ground rules for those qualified to serve on the board, was cited regularly from the nineteenth to the late twentieth century. See for example Mottu v. Primrose, 23 Md. 482 (Md. 1865); Conway v. Commonwealth, 4 Walk. 106 (Pa. 1881); Pelzer et al. v. Lewis, 440 Pa. 58 (Pa. 1970).
incorporated spaces, where religious societies were formed and remained independent, even in the face of rising white aggression and racism.\textsuperscript{77}

This outward-facing activity and firm grounding on a legal foundation also sustained the construction of community within church walls. Internal governance was made possible by the capacity to sustain the distinction between insiders and outsiders that was essential to church life. To join Bethel was to become part of a religious family, to be gathered into the blessed congregation. Within the community, African Methodists embraced (and some resisted) Richard Allen’s sacerdotal discipline. There, devotional ritual and practice assured the community of God’s blessing on their enterprise. The preciousness of such devotions in the lives of early national African American worshippers is evident in the strength of their religious corporations: the support they received from congregants allowed these churches to put down deep roots in American law and society.\textsuperscript{78}

Nonetheless, this is not a triumphalist story. Unity was not the result of such development. Separate churches for African Americans were integrally connected, as we have noted, to the state governments that created general incorporation statutes for religious societies. Indeed, these churches relied on the power of the state to allow them to separate from white-dominated religious structures. But the price was evident in the battles between Allen and Robert Green. It is not just that the ability to dissent sustained the departure of Absalom Jones and Allen from St. George’s after they had been insulted and humiliated. The law of religion after disestablishment also allowed betrayals from within—painful and intimate treason that fractured community with the same tools that had built it in the first place. \textit{The Sword of Truth} was the title of a pamphlet defending Allen against charges of corruption growing out of Green’s complaints in the early 1820s. But the sword could strike in either direction. By the time he fought back against his enemies, Allen was an old man, but he was still vulnerable.\textsuperscript{79}

\textsuperscript{77} One scholar makes a related claim for incorporated Italian, German, and Irish fraternal organizations in the mid- and late nineteenth century. Their organizations did not assimilate or even generate widespread acceptance outside their own communities; rather, they traveled a separate if related path, helping to create what we now think of as pluralism. Peter Dobkin Hall, \textit{Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations} (Baltimore, 1992), 142, 206.


\textsuperscript{79} Allen and Tudas, \textit{Sword of Truth}. 

Like Allen, Green used law and legal argument to dissent from authority—Allen's leadership of Bethel, in particular. The protections provided for religious corporations against outside threats made them all the more susceptible to internal stresses that acquired strength from these same legal forms. These organizations were not empowered to disregard legal standards or legislative mandates when dissenters invoked them against religious authority (that is, they were not precursors of the organizations in the *Hobby Lobby* case, where the plaintiffs claimed the right to exemption from otherwise legitimate regulations of government). In the early Republic, the power of religious institutions was both described and limited by the legislation that authorized their existence. The law of religion, as it took shape after disestablishment among African American congregations, was seductively inclusive and empowering but inherently subject to further declarations of independence from within.

Most scholarly work on black churches has focused on dimensions other than legal and economic life. Yet an appreciation for the law is vital to understanding the history and institutional life of African American congregations and to piecing together the struggle against white power that called the AME Church into being. Pride in this legal agency was central to the meaning and efficacy of communal worship for the congregants of Bethel and other African American churches. But consensus did not flow from law, and perhaps unity was not the central point: neither the AME Church nor the white denominations from which Bethel and other African congregations seceded ever achieved the consensus that we have attributed to them in retrospect.

The legal history uncovered here and running through the case law and records of church corporations illustrates something that may have been more powerful than unity. It shows us both the energy unleashed by legal conflict and the creativity that flowed from vibrant debate. Abandoning the notion of unity (in the form of an “evangelical united front” for white churches or a unitary “black church”) allows us a richer vision, in which dissent and schism have been as constant and as productive as initial church formation. Intraracial conflict, the “courage to dissent” that characterized Bethel, Wesley, and other African American congregations, generated new legal entities and ways to worship, as new...
churches emerged from the fires. Indeed, the means of fracture and change were regularized in corporate form for religious institutions. From the pain and exhilaration of dissent, African Americans made legal history. Jones, Allen, and even Green all “planted” churches in law and then, of course, immediately began to struggle with dissidents of their own.
