

A Federal Court Acknowledges Christ's True Church

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

Before: Hon. ALFONSO J. ZIRPOLI, Judge

This book may be found in public libraries in many cities in the United States with 20,000 population and over [as of time of publication].

FORWARD

Several years ago some members of the "corpus Christi," the church which is Christ's body, became convinced that it would be cowardly and sinful for us to agree silently that "Caesar" [the state] had a right to describe and define "the church of God" as being UN-incorporated and, therefore, disqualified to claim exemptions from income tax; or for the members of that church to denied deductions for contributions to that church in the name of the Lord Jesus Christ.

Since "Caesar," in this case the United Sates government, declares positively that NON-profit religious corporations are not to be taxed, we knew that no part of the DIVINELY incorporated "corpus Christi" owed any tax to Caesar. We became convinced that to submit silently to being ignored and denied our rights as citizens of the United Sates in the tax matter would be to deny our GLORIOUS HEAD and the reality and efficiency of the "church which is His body." Therefore, after much prayer and much study of the Word of God, we "appealed to Caesar," [Matt. 22:21; Acts 22:25; Acts 25:8-12]. We went above the Internal Revenue Department in an appeal to our Federal Courts.

This last statement is not a reflection upon our Internal Revenue Department. We are simply taking advantage of our Constitutional and Biblical rights in determining what, in this case, is "Caesar's" and what is God's.

We have no reason to doubt that this case is unique in our United States courts. All Christians in this country [and elsewhere] should have been doctrinally clear and spiritually determined to earnestly contend for the unity of the Spirit in the bond of peace.

Read Eph. 4:3-5 and Jude 1. When professing Christians feel the need of asking the civil government to grant them incorporation status and official state incorporation papers, it is because those professed Christians are desirous of being other than the "church which is Christ's body." Neither the Lord Jesus Christ nor His body can be "incorporated" by man.

We were chided in the earlier stages of this case by some of the lawyers for not forming "some kind of NON-PROFIT religious corporation that would meet the civil code," etc. They "legally" assured us that we could very easily "avoid all this trouble and talk" by forming and organization and naming it anything we pleased. We courteously and confidently informed these Internal Revenue agents that our God-given responsibilities could not be thus "man-handled" since the God whose church we are in and are functioning in is not a dummy, and the Head of it is not merely a "figure-head."

Secondly, we are gratefully aware of the fact that the Pledge of Allegiance to the Flag declares that this is "one nation UNDER God." This LIVING GOD'S Word about His church is full and final.

While being deeply grateful to Federal Judge Alfonso J. Zirpoli for the dignified graciousness he showed in allowing us to present our case, we do not believe his decision in our favor was other than any just judge would be forced to render after hearing or reading what we are herein presenting you. We do think, however, that it would have been almost impossible for any judge to have given a clearer and more accurate summation of our position than he did in his decision when he declared, "These factors noted by the government might normally be indicative of an absence of unity of purpose of operation. However, in the case of the church in question, they stem from the very doctrinal ties that bind its members together. The members of this church regard themselves simply as members of the body of Christ, that is, members of the body of persons following the teachings of Christ as revealed in the New Testament. They have refrained from adopting a denominational name and any written organizational guide supplementary to the New Testament because they believe that to do so would be to add an arbitrary gloss to Biblical precepts, thus obscuring the Word of God. . . ."

The question of "church and state" is squarely faced and greatly simplified in this record of the court case. The few hundred Christians immediately involved in this income tax case humbly and Biblically refuse to destroy the pilgrim, "called-out" character of the church which is Christ's body by "breaking ground" with "Caesar-incorporated" real estate.

THE MOST HIGH DWELLETH NOT IN TEMPLES MADE WITH HANDS. Acts 7:48

—M. M. J.

In the printing of this book from the original transcript and statement of facts on file with the Court, some corrections were made but only in such matters as punctuation, spelling, etc.

A BRIEF HISTORY OF THE CASE

A SHORT HISTORY OF THE VARIOUS LEGAL STEPS TAKEN IN THIS RECENT CASE, KNOWN TO THE LAW AS MOREY VS. RIDDELL, by Dalford Todd, attorney

The "Tax Case," as it is referred to by those of us who, as Christians, are associated with it, and known to the law as Morey vs. Riddell, 205, Federal Supplement 918, has been as fascinating and novel as approach to the income tax field as any that I have known. I have searched the law books in vain for a case similar in nature and character to the "Tax case." It is unique, so far as I know, in that it represents the first combined approach to presenting the organized church of the Lord Jesus Christ to the Federal for the plaintiffs, Mr. and Mrs. C. L. Morey.

Government for purposes of obtaining our rights as Christians and citizens entitled to equal administrations of the tax laws as applied to the field of tax deductions for religious Brother Lawrence Hagerman and his wife, Dorthy Hagerman, were originally intercepted by the Internal Revenue Department as to their tax returns, wherein they, as did Brother and Mrs. Morey in the instance case, claimed deductions for money paid to ministers of the Lord Jesus Christ who were functioning in the church which is Christ's body. Brother Hagerman and Mrs. Hagerman were of untold help to all of us in preparing this case for trial. As a lawyer, and as a brother in Christ to Brother Hagerman, I looked forward with real anticipation to having him with us as we prepared and presented the first case, but our gracious Saviour saw fit to take Brother Hagerman home, and leave our beloved Sister Hagerman to go on with us.

We side-tracked Sister Hagerman's case, and decided to pursue the claim made by Brother and Sister Morey, for a tax test case. This was not Brother Morey's decision alone, but it represented the decision of many men, after many meetings. And I might add that it represented the combined affirmation of several Christian assemblies known to us throughout the United States, who were equally interested as Christians, for we all felt that the name of the Lord Jesus Christ was at stake.

When the Hagerman case first arose we had a meeting in the Dallas, Texas area of the Christian men from various parts of the country. After several meetings and much prayer, Christians and citizens through the courts, believing that we had the mind of the Lord in it. There have been many hours of time and effort spent on this case by many different Christians, and thousands upon thousands of miles have been traveled by various Christians preparing this case for trial. As you might suspect, hours upon hours of research went into determining what our legal approach should be. Only God knows how many conferences I felt were necessary, for me as a Christian and as a lawyer, with my brethren in getting their counsel and advice as to how we should go about approaching the various aspects of this case. Many of our older brethren in the church, including elders and deacons, have been of untold help to us, and you might say, guided and We had several different conferences with the lower echelon of the Internal Revenue Service in Los Angeles, as well as several conferences with the Appellate Section of the Internal Revenue Service in both Los Angeles, Calif., and Dallas Texas. On each and every occasion there were anywhere from ten to forty men, of more, who met with the Appellate Supervisors to discuss the relative merits of our claim.

All the income tax men were gracious and seemed to want to see us successful, yet they could not see that we were organized as they thought the law used the term "organized." It is not believed that any of them felt that our claim was not just from the standpoint of merit as to the use of the funds involved, but rather a question of whether we were organized. Only God knows how thrilled some of us were to see that the issue was boiled down to the question of organization; and how thrilled we were at the prospect of being permitted of God to present the organized body of Jesus Christ as it functioned through a few of us as we operated under Christ our Head in this case.

The final conference was had in Los Angeles, where we entered an application of examination through the Los Angeles income tax office, which was forwarded to Washington. We were never favored with an affirmative finding as to this, so the reader can see that much ground work was done in preparing this case for trial. I believe that most of us, and I hope all of us, immediately interested in this case were only thankful to God for the divine provision made for evangelists, pastors, and teachers who were used of God in our lives in this case, including Brother Maurice Johnson, Brother Bob Thompson, and Brother James Cox. Of course, there were other ministering brethren, but they had not been involved in financial donations in Brother Morey's case, and consequently were not actively involved.

After the final refusal by the government through the Los Angeles office, followed by an effort through appeal to the Washington headquarters without success, we decided to pursue our efforts for a refund by the Internal Revenue Department, of the excess tax paid under protest by Brother Morey, by instituting suit against the government for refusing his claim on the basis that we were members of an organized NON-profit church.

The petition was filed in this case in the United States District Court for the Southern District of California. The attorneys for the defendant, the district Director of Internal Revenue, filled interrogatories in said cause for answer by plaintiffs, Brother and Mrs. Morey. The purpose of these interrogatories and answers being to narrow the issues to be presented to the court for consideration. The interrogatories propounded most interesting questions to the plaintiffs which enabled the plaintiffs to fully present their reasons for not joining some man-made organization as an outlet for what would otherwise be tax exempt contributions under the rules of the Court for the Southern District of California.

These interrogatories with answers are printed in full in Section 1. There was also a provision for the filing of a Memorandum of Contention and Brief of the Law and Facts, which was done by both parties. See Section 1, page 25. About July 6, 1961, plaintiffs and several of the Christian men interested in this testimony had a pre-trial meeting with the attorneys for the defendant, concerning the issues germane to the case — namely, whether or not Congress could delegate to the Commissioner of Internal Revenue the authority to determine whether or not an organization was a church in the meaning of the Internal Revenue Code for purposes of tax exemption.

Upon appearance before Judge Byrne, the United States District Judge presiding at the pre-trial hearing, the case was set for hearing in January, 1962, and Federal Judge Zirpoli, United States District Judge for the Northern District of California was assigned to hear and try the case. The hearing took two days at which time testimonies were heard from both laymen and ministers who were concerned with Brother and Mrs. Morey in establishing the fact that the church which is Christ's body is organized by the Head of the church and therefore qualifies as no other organization as a non-profit religious body.

The entire transcript of the testimony at the trial can be found in Section 2, pages 36-261. Due to the press of business on the part of both the judge and the defense attorney, the court phase of the trial terminated with witnessing for plaintiffs, and the judge granted to the plaintiffs and to the defendant the right to file post-trial briefs of Law and Fact in this case. These briefs are to be found in full in Section 3, pages 262-297.

Both plaintiffs and defendant thereafter filed Reply Briefs, with plaintiffs filing comments to the defendant's reply as the last instrument filed in connection with said briefs. Text of these instruments — post-trial Briefs of law and Facts, and Reply Briefs and comments thereon were all mailed to Judge Zirpoli, who studied same, and based upon the evidence he had before him, the Order for Judgment was declared and entered by him, and according to the ruling of the Court the Finding of Facts, Conclusion of Law and Judgment was entered thereupon. See Section 3, pages 324-334.

This judgment became final, since the government did not see fit to appeal from the adverse ruling of judge Zirpoli, and said judgment is now the law of the case.

It might be said that as a result of this case, cases similar in nature have been favorably settled, and in particular, one case was held in abeyance for many months in the Internal Revenue Office in Dallas, Texas, pending the outcome of the Morey case. See the letter addressed to Mr. Caplin, Commissioner of Internal Revenue in Section 3, pages 335-338.

The main objective behind this case was that of testimony, primarily, which we believe to some real degree has been accomplished. Those of us immediately interested in this case believe that the Lord has been glorified; that this case may be used in the future by other Christians to increase their usefulness for the Lord Jesus Christ on earth. We are thankful for our government allowing us the privilege we had in this case, and we want all connected with it to know that we appreciate the kind and considerate treatment afforded us, and we look forward to this record being a blessing to all who may read it.

Not all the Court papers on file in the clerk's office are shown in this book, but those necessary to a correct presenting of the character, conduct and disposition of the case were selected and included herein.

The transcript of the testimony received by the Court is correctly reproduced in this book. [See Section 2, pages 36 to 261]. Of course, due to the difference in type, spacing, etc. of this printed edition, the page numbers of the testimony do not correspond to those of the official Court Reporter's transcript. Also, the court reporter's name appears on each page of the official transcript, but since the page numbers of this book, as to the testimony, do not correspond to the page numbers of the official transcript, we give the reporter's name

Mr. Roland J Rehauer, at the beginning page of the testimony as reported herein. [See Section 2, Page 36].

Hebrews 13:5-6.

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SECTION III — POST-TRIAL

PLAINTIFFS' POST TRIAL BRIEF OF LAW AND FACT

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA,
CENTRAL DIVISION

CLARENCE L. MOREY AND WIFE A. LOIS MOREY Vs. Plaintiffs

PLAINTIFFS' POST
TRIAL BRIEF OF LAW AND FACT
ROBERT A. RIDDELL
No. 1100-60 W B Civil
Director of Internal Revenue
District of Los Angeles
Defendant

PRELIMINARY STATEMENT

It will be remembered that upon the trial of the above cause in the Federal District Court for the Southern District of California, Los Angeles, had on January 9 and 10, 1962, that at the close of the evidence the Court asked if the parties desired to submit briefs; whereupon it was agreed that plaintiff and defendant would be allowed to file additional briefs with the Court.

In conformity with that permission, the following brief of the facts and law on behalf of the plaintiffs is herewith submitted for the Court's consideration.

STATEMENT OF FACTS

The question in this case before the Court as to the facts is whether or not petitioners belong to a charitable corporation organized for charitable purposes as contemplated by the Internal Revenue Codes of 1939 and 1954.

Much evidence was introduced and received from many witnesses, some of them with years of intimate

association and joint participation with the ministers involved in this case, and in the church presented to the Court herein, which is the Bible church, the church which is Christ's body.

We believe we have unforced and unassailable evidence that this church, "the body of Christ," does not need to be again embodied, re-organized or re-incorporated. This corpus Christi [or the body of Christ] is the only essentially non-profit religious corporation on Earth. The ministers involved in this case and all the other witnesses, except the first three who were secular witnesses only, were obviously of one mind in denying that they had any thing to do with starting or organizing or incorporating this corpus Christi [the body of Christ]. The two or three largest denominations in Christendom make the same claim as to the origin and charter of the original church. In fact, so far as we know, all professing Christian groups likewise claim that no one today had any part in starting and organizing the original "body of Christ," the Christian church.

This one and only Bible church historically began when the 120 disciples of the Lord Jesus Christ were baptized by the Holy Spirit into "Christ," thus making them "the church which is His body:"

"For by one Spirit are we all baptized into one body, whether we be Jews or Gentiles, bond or free; and have been all made to drink into one Spirit . . . for God hath set the members every one of them in the body, as it hath pleased Him." 1 Cor. 12:13, 18 This church has grown as "the Lord added daily" to it "such as should be saved" Acts 2:47. We do not dare presume that we need a changed Christ; likewise we do not dare presume that "His body" [the corpus Christi] needs to be, or can be, changed by mortal men. We believe that only God can and has revealed the nature and work of His church.

In His Word, the Bible, we are explicitly told that the Scriptures make "the man of God perfect, thoroughly furnished unto all good works" 1 Timothy 3:16-17. We believe that the apostles of Jesus Christ and other Christians in the Bible times beautifully revealed the character, the conduct and the supernatural efficiency of this Divinely incorporated church, the corpus Christi. We joyously believe that this same church still exists, and is [or should be] represented on earth today by all true Christians, who are, according to God's Word, living members of this glorious church.

We confidently believe our Lord's gracious words that "where two or three are gathered together in My name there am I in the midst of them" Matt. 18:20. Therefore, since Christ has guaranteed His personal presence in every local assembly of the members of His body, we believe it to be essentially non-Christian to endeavor to organize and re-name such an assembly [a local church]. Therefore our reasons for not arbitrarily organizing and taking an alias [or assumed name] are not whimsical, or fanatical or illegal, but Biblical and reverent. Thus, and thus only, can we believe that we offend neither God nor Who can say that there ever was another man who lived as unselfish a life [non-profitable to self] as did Jesus Christ of Nazareth? Surely the church which is His body can be, and should be, as unselfish and obviously non-profit a religious corporation [body] as was its Head while He was physically on earth. That is why the ministers and their Christian brethren in this case have fervently and Biblically sought to be spiritual springs on earth rather than religious cisterns. We are prayerfully seeking to avoid the horrible mistakes of Israel of old; "Be astonished, O ye heavens, at this, and be horribly afraid, be ye very desolate, saith the Lord. For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water."— Jeremiah 2:12-13

The glorious opposite to Israel's sickening and infidel effort to improve God, the Living Fountain, is given us by our Lord in John 7:38-39: "He that believeth on me, as the scripture hath said, out of his belly shall flow rivers of living water. [But this spake he of the Spirit, which they that believe on Him should receive . . .]"

Also John 4:13-14: "Jesus answered and said unto her, Whosoever drinketh of this water shall thirst again : but whosoever drinketh of the water that I shall give him shall be a well of water springing up into everlasting life."

This fountain of everlasting water, we believe, can not be helped by man-made “corporation pumps“ or sectarian cisterns. In other words, Bible-Christians are not in the business of filling cisterns but overflowing as spiritual springs.

This is truly non-profit corporation. Instead of our being guilty of denying the need of an efficient corporation, we are fervently and consistently contending for the Lord’s perfect corporation on earth, the body of Christ.

We learn from His Word the character and purpose of this corporation of which Christ is the Founder and Divine Director [Head], reserving to Himself alone the right to select, make and name all the members and officers: “He gave [to the church] some, apostles; and some, prophets; and some, evangelists; and some, pastors and teachers; for the perfecting of the saints, for the work of the ministry, for the edifying of the body of Christ“ — Eph. 4:11-12.

Other officers, “elders“ and “deacons“ are made, qualified and commissioned by the Spirit of God. To “the elders of the church“ of Ephesus the apostle Paul said, “Take heed therefore unto yourselves, and to all the flock, over which the Holy Ghost hath made you overseers, to feed the Church of God, which He hath purchased with His own Blood“ — Acts 20:28.

God-given details as to the character and conduct of His elders and deacons are given us in 1 Tim. 3 and Titus 1. Their presence and identity in the church are only recognized and publicly declared [“ordained“ — not made] by evangelists, pastors and teachers of the church. For instance, Paul the apostle gave the inspired command to Titus, “For this cause left I thee in Crete, that thou shouldest set in order the things that are wanting, and ordain elders in every city, as I had appointed thee“ — Titus 1:5.

Integrity of character and trustworthiness are neither created, guaranteed nor governed by external laws. “A good tree bringeth forth good fruit“ — Matt. 7:17. “God is love,“ and the love of God is shed abroad in the heart“ of every real Christian, we are told in the Bible; and “we know that we have passed from death unto life because we love the brethren.“ — See 1 John 4:8; 3:14 and Romans 5:5.

God says. “The law is not made for a righteous man, but for the lawless and disobedient . . . and perjured persons” The practical and super-naturally efficient functioning of the members of this corporation are given us in the Bible, for example, in the collecting and disbursing of monies from several local churches to needy members of other local churches: “Now concerning the collection for the saints, as I have given order to the churches of Galatia, even so do ye . . . and it may be that ye may be that I will abide, yea, and winter with you, that ye may bring me on my journey whithersoever I go . . . Now if Timotheus come, see that he may be with you without fear; for he worketh the work of the Lord as I do. Let no man therefore despise him: but conduct him forth in peace, that he may come unto me: for I look for him with the brethren . . . I am glad of the coming of Stephanas and Fortunatus and Achaicus: for that which was lacking on your part they have supplied.

For they have refreshed my spirit and yours: therefore acknowledge ye them that are such. The churches of Asia salute you. Aquila and Priscilla salute you much in the Lord, with the church that is in their house“ — 1 Cor. 16:1, 6, 10, 17, 18, 19. “Moreover, brethren, we do you to wit of the grace of God bestowed on the churches of Macedonia; how that in a great trial of affliction the abundance of their joy and their deep poverty abounded unto the riches of their liberality . . . praying with much in treaty that we would receive the gift and take upon us the fellowship of the ministering to the saints . . . insomuch that we desired Titus, that as he had begun, so

he would also finish in you the same grace also . . . for ye know the grace of our Lord Jesus Christ, that though He was rich, yet for your sakes he became poor, that ye through His poverty might be rich . . . Now therefore perform the doing of it; that as there was a readiness to will, so there may be a performance also out of that which ye have . . . thanks be to God, which put the same earnest care into the heart of Titus for you“ — 2 Cor. 8:1-16.

Note well the vitality and efficiency of the early church, divinely incorporated and divinely directed. Continuing with 2 Cor. 8: “And we have sent with him the brother, whose praise is in the gospel throughout the churches; and not that only, but who was also chosen of the churches to travel with us with this grace, which is administered by us to the glory of the same Lord, and declaration of your ready mind: avoiding this, that no man should blame us: in this abundance which is administered by us: providing for honest things, not only in the sight of the Lord, but also in the sight of men. “And we have sent with them our brother, whom we have oftentimes proved diligent in many things, but now much more diligent, upon the great confidence which I have in you. Whether any do enquire of Titus, he is my partner and fellow-helper concerning you: or our brethren be enquired of, they are the messengers of the churches, and the glory of Christ. Wherefore shew ye to them, and before the churches, the proof of your love, and of our boasting on your behalf“ 2 Cor. 8:18-24.

It is delightfully simple and certain that these early Bible churches had a most effective and efficient CONTROL over their ministers — all of their servants — in money matters, as well as in purely spiritual things. “The law of the Spirit of life in Christ Jesus“ made men of God splendidly independent of man-made organizations and sectarian regulations for, as the apostle Paul wrote, “The love of Christ constraineth us . . .“ and “love is the bond of perfectness“ — 2 Cor. 5:14; Col. 3:14. This divine love binding these “church members“ together is not a “loose“ bond. It is stronger than all sectarian machinery put together, for “the end of the commandment [the law] is love out of a pure heart“ — 1 Tim. 1:5.

Members of the early Bible church functioned as ‘members one of another“ in “the church which is Christ’s body,“ doing all that they did “in the Name of the Lord Jesus . . .“ as they were commanded. See Col. 3:17. Their “non-profit“ corporate life was real, always efficient and unquestionably sufficient, sufficient for the life that “the body of Christ“ was then, and still is, supposed to live on earth. “A good tree bringeth forth corrupt fruit . . . Every tree is known by his own fruit“ — Luke 6:43-44.

Just as the Methodists, “Grace Gospel Fellowship,“ Baptists, Roman Catholics, Lutherans, Plymouth Brethren“ and hundreds of other recognized “non-profit religious corporations“ entrust their monies to trustworthy officers obviously, by the standards, set by each organization for handling its own finances; so trusted officials of one “non-profit corporation“ may receive and spend \$30,000,000 for the erection of one local Cathedral in perfect accord with their particular organization’s wishes and orders. For the “trustees“ or otherwise named officials of “the Plymouth Brethren“ to even try to spend that much for their local ‘Gospel Hall“ would, for them, be most untrustworthy.

Genuine Christian character is its own guarantee of faithfulness and dependability. The Bible account of the early church gives us delightful proof that this is true as we see “the body of Christ“ [the corpus Christi] spreading the glorious gospel of the grace of God by the living and the giving of their new life “in Christ“ and Christ in them.

The ministers, other witnesses, and the plaintiffs in this trial [as well as many hundreds of other Christians in the assemblies represented by these witnesses] have for years professed and demonstrated their faith in the sufficiency of the Bible for faith and practice.

Some of the practical characteristics of this corporation that prove it to be both living and obviously non-profit are regular public meetings in homes and in rented auditoriums, for Bible study, worship and evangelism;

extended radio ministry, never sponsored or supported by those outside the body of Christ, so far as we know or desire; free Bible literature, printed and distributed by this corporation; financial assistance to the distressed, sick and afflicted, as deemed necessary and possible; men's business meetings; the spiritual and financial support of ministers of Christ; "camp meetings" for entire assemblies, with special emphasis on youth; and our ministers performing marriage ceremonies — recognized by the State as being legal. All of this corporate life [living and giving] is because of, and is proof of, our love for the Lord Jesus Christ, for one another as fellow members of "the church which is His body," and love for lost men and women who need what we have to give. We consistently believe that those outside the "body of Christ" have nothing to either supplement or strengthen the NON-PROFIT church of the Surely this is the only absolutely NON-PROFIT, heaven-sent, religious corporation on earth. According to God's Word all saved sinners, all "born again" people, are vital members of this church, but possibly the majority have become "corrupted from the simplicity that is in Christ." Personally, we dare not close our Bibles and listen to Babel To some of us Christians, this tax case has already been used of God to make us more intelligent citizens of the United States, to more Biblically pledge our allegiance to this "ONE NATION UNDER GOD," and to never forget that He is not a dumb idol.

We believe that both God and "Caesar" should be obediently heard as we humbly, confidently and resolutely determine to "render to Caesar the things that are Caesar's and to God the things that are God's." We rejoice in believing what God himself tells us, that "rulers are not a terror to good works" — "good" as determined by Diety alone — Rom. 13:3; 2 Tim. 3:16, 17.

This concludes the "statement of facts."

BRIEF OF THE LAW

The last two issues of law [B & C of pre-trial order] to be considered by the Court concerned whether or not Congress could delegate to the Commissioner of Internal Revenue the power and right to determine what a charitable religious corporation was, within the meaning of the Internal Revenue Codes of 1939 and 1954. In contending that the Commissioner must recognize all existing religious charitable corporations as distinguished from "determining or in fact creating same," the plaintiffs quote here the 1st Amendment to the United States Constitution, to wit: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . ."

The foregoing quoted portion of the 1st Amendment is the portion thereof which applies to the instant case and it is believed that the mandate of that portion is so clear that Congress cannot create any religion, but must recognize and protect equally all existing religions. It cannot tell citizens what their religion must be, or that their chosen religion isn't, in fact, a religion at all.

In the instant case it is conceived and believed by these plaintiffs that the Commissioner of Internal Revenue has endeavored to tell the plaintiffs that their specie of religion does not meet that outlined by the Internal Revenue Codes of 1939 and 1954. In effect, the Commissioner is creating a religion, and seeking to destroy one that obviously exists.

This is clearly forbidden by the 1st Amendment. In support thereof, the plaintiffs will cite the Court to the following authorities which undoubtedly stand for the proposition that the citizens of this country are free to choose that form, type and mode of worship which suits their own consciences and beliefs.

In the case of Illinois, versus the Board of Education, Supreme Court of the United States, 92L. Ed. 649, citing Everson vs. The Board of Education, Supreme Court of the United States, 91 L. Ed. 711, the Court said

[wherein the matter of an individual's religious practices were involved], to wit : "Neither State nor the Federal Government can set up a church, neither can pass laws which aid one religion, aid all religions or prefer one religion above another. Neither a State nor the Federal Government can openly or secretly participate in affairs of any religious organizations or groups."

In the case of *United States vs. Ballard*, 88 L. Ed. 1148. The Supreme Court of the United States, the defendants were indicted, tried and convicted for using the mails to defraud, the fraud being as to certain claims made as to their religious standing. The Supreme Court reversed the conviction and the affirmance of the Circuit Court, saying : "The [defendant] was granted the right to worship as he pleased and not to answer to man for the mode of his religious views. The religious views of respondent might seem incredible, if not preposterous, to most people but if these doctrines are subject to trial or falsity, then the same can be done with religious views of any sect. The 1st Amendment does not select any group of any one type of religion for preferred treatment. It puts them all in this position."

In possibly a land mark case on the issue of religious freedom, the case of *Cantwell vs. Connecticut*, 84 L. Ed. 1213. Supreme Court of the United States, the Court said, in reversing a conviction of a preacher for speaking in a park in which other preachers had spoken [but he was denied the right to preach there] as follows, to wit : "The essential characteristics of these liberties is that under their shield many types of life, character, opinion and belief can develop unmolested and unobstructed. Nowhere is this shield more necessary than in our country for a people composed of many races and of many creeds."

It is submitted to the Court that these cases clearly establish that Congress cannot give to any Government agency the authority to determine whether a religion meets the approval of said agency, as to whether it is fit and proper as a religion. Such matters are left, and must be left, to the consciences, beliefs and desires of the individual citizens, so long as they do not interfere with the rights and privileges of other citizens. The laws must be for the enjoyment and protection of its sovereign citizens and not instruments of oppression in the hands of a particular bureau.

In this instant case these plaintiffs [as well as other of the interested witnesses who testified in this case] who were for years members of accepted religious sects, decided as Christians that they should no longer remain in those sects. They came in contact with the Christians they now meet with [including most of the testifying witnesses herein] and decided that those Christians were meeting as the Bible declared they should. Thereupon, their consciences directed that they begin meeting with and supporting the ministry and other corporate activities of these Christians. If it please the Court, can there be any question that there is an organization in this instant case, according to the weight of the evidence presented from the mouths of many witnesses, as well as the exhibits Plaintiffs, including all the other witnesses, as many of the spectators in the Court room who were identified as members of this church, have met together. They have been worshipping and working together, supporting the ministers and attending to the varied corporate activities consistent with and characteristic of the Christian family life. We believe the Court realized that Mr. Morey, a very able businessman — the owner of a large music store in Long Beach, California — would have judgment sound enough to know the difference between a true religion and free lance racketeers. Many of the other witnesses, also men of business acumen, with large and prosperous businesses, who undoubtedly understood what they want, along with hundreds of other sincere citizens, have chosen this manner of corporate expression of their heart felt religious convictions.

We ask the Court, and are confident that the Court will surround us with the legal and Constitutional shield of protection to pursue freely our convictions. Imagine the dismay and doubt, as American citizens, of being told that our religion is not acceptable to the Commission of internal Revenue. Imagine in a free and noble America, and American whose breast has been bathed by the sweat, toil and agony of Jefferson ; the challenging words of Lincoln and other great patriots; and the blood and tears of thousands of citizens, that citizens could be disallowed their preferred religious corporation!

If we, as citizens, and natural born citizens of this great country, are not free to select our own mode of corporate existence in a religious sense, but must be guided by the various Governmental bureaus in that determination, then we, along with our fellow citizens, no longer live in a free America. We, if it please the Court, are here in this matter fighting for the cause of freedom. Congress is nothing more than the elected and hired servants of “We the people.” Congress cannot be said to be “exercising grace towards its sovereign citizens” for Congress is elected to provide laws for the best interests of their masters, the citizens, not to oppress them.

To contend that the Internal Revenue Code’s definition of a “non-profit religious corporation” is only for purposes of taxation is not only begging the question but it is amazingly arbitrary, if NOT positively dictatorial — certainly undemocratic and unconstitutional!

It is feared that our Government does not appreciate the dangerous direction in which our Internal Revenue Department is now headed, as it tries to determine what is a corporate church and what is not. It would force such of its citizens as us to scurry to conform to its arbitrary definitions against our sincere religious convictions so clearly protected by the Federal Constitution. Is not such action by the Internal Revenue Department heading back in the direction of civil bondage, state-craft and religious oppression, from which our forefathers became so gloriously free only at the expense of terrible persecution and bloody wars? Are we different from dictatorial materialistic Communism only in degree, or in kind? Is “The separation of Church and state” merely a political shibboleth or a profound national and personal conviction with us? The petitioners and witnesses believe that we are true friends of our Government. We want to keep our Government free. We want our Government to rule in matters of politics, but in matters of religion “it must not prefer one religion above another” as it administers our laws impartially and “with justice and liberty for all.” The cases of *Fowler vs. the State of Rhode Island*, 97 L. Ed. 828, *Davis vs. Beason*, 33 L. Ed. 637, and other cases which could be cited support the foregoing.

The petitioners, and others of the witnesses, as well as others of our brethren who were spectators, are firm in their conviction that their life, worship and work, only as members of the body of Christ, for years now [including 1952, 1954 and 1955] has been more surely and effectively a corporate life than when in man-made religious corporations. For them to be told that their life and work in this corpus Christi [the body of Christ] is not acceptable to the Commissioner of Internal Revenue under the Internal Revenue Codes of 1939 and 1954, is in effect and effort to deny them the greatest of all freedoms, that of being able to worship Almighty God as the Bible directs.

It would mean that in tax matters this is not “one nation under God” but one Internal Revenue Commissioner with a dumb god under him!

However, it is our humble prayer, first to God, then to the Court, that the Internal Revenue Code be so clarified as to interpretation the Internal Revenue Commissioner will not, in the future, be again forced into such an unfavorable position.

ISSUE A OF PRE-TRIAL ORDER

Should the Court disagree with us as to items B & C [issues of law in pre-trial order], then, in addition, we contend under issue A of same, that this corporation is an organization which is clearly entitled to recognition by the Internal Revenue Codes of 1939 and 1954; that the Commissioner and subordinates should have granted recognition to said corporate testimony instead of attempting to create one. The fact that the Internal Revenue

Department seems to have such difficulty in identifying and recognizing this particular company — hundreds of Christians — as being living, worshipping and working members of the church which is Christ's body, cannot honestly and legally be laid at our feet. We are not lawless and blameworthy for being sincere members of the only absolutely non-profit religious corporation on earth -- the corpus Christi [body of Christ]. We cannot be morally or legally classified as tax evaders for refusing to pay taxes under some sectarian alias, as artificial members of some man-made religious corporation. The legal and moral job of the Internal Revenue Department in our case is sublimely simple. We are merely Christians, carrying on our Christian work while refusing all assistance from non-Christians, and resolutely refusing to be a government subsidized religion "for tax purposes." It has required no secret service men, no treasury agents, no detectives or policemen to find out that we are a Christian non-profit corporation. When God's people "walk in the light as Christ is in the light," they welcome Caesar's "flash lights." "He that doeth truth cometh to the light that his deeds may be MANIFEST that they are wrought in God." John 3:21.

The search of the law has been profitable, enjoyable and delightful on this point, and cases which are "legal nuggets" have been discovered. Others may have been overlooked, but a diligent search into the law has been made, with the following results, among other cases which could be cited.

In the case of *Morrisey vs. Commissioner of Internal Revenue* 80 l. Ed. 263, the Supreme Court in defining and discussing the term corporation said :

"The inclusion of association with corporation implies resemblance, but it is resemblance and not identity. The resemblance points to features distinguishing associations from partnerships as well as from ordinary trusts. As we have seen, the classification cannot be said to require organization under statute with statutory privileges. The term embraces associations as they may exist at common law. We have already referred to the definition quoted in that case [*Hetch vs. Commissioner Malley*, 68 L. Ed. 949] showing that the ordinary meaning of the term as applicable to a body of persons united without a charter upon the methods and forms used by incorporated bodies for the prosecution of some common enterprise."

To the same effect see *Helvering vs. Commissioner*, 80 L. Ed. 278, as quoted therein.

The case of *Bok vs. C.I.R.*, 45 Federal 2nd 616, where Bok informally organized a group of men together for the purpose of awarding a yearly prize to outstanding people of the city of Philadelphia, contributing \$212,000.00 thereto for awards, the Commissioner contending that this arrangement was not an organization under the Code, not a charitable corporation. The Circuit Court of appeals held same to be a corporation, saying :

"The word corporation includes association; and taking dictionary definition of an association is a union of persons in company for some particular purpose. We are of the opinion that Congress, by this comprehensive and inclusive word, meant to include unincorporated bodies created by the association of men to carry on some common, charitable, or educational purpose. The English law recognizes the distinction between the creation of a body capable of accepting a trust and making a donation to it."

In *Lord vs. C.I.R.*, 9 B.T.A. 807, one Mehl, with the help of a few part time workers, carried on a work called "Home of Truth," unincorporated at the time. All the usual and customary activities were associated with this movement such as meetings, prayer meetings, etc., and the general public invited to attend. The organization had no private income but depended on the voluntary contributions of the members, and such contributions as were given to the leader, Mehl, and associates indiscriminately for such organization. The Court held this to be a religious organization under the Code and the contributions to it deductible, and all of which were made before

it was incorporated under the law.

In *Ortseifen vs. C.I.R.*, 14 B.T.A. 1403, the taxpayer paid the following contributions and claimed them on his income return :

“Mr. Rothman, \$25.00; Pastor P. J. Weind, \$2,000.00; Thomas F. Kerley, \$250.00; John A. McCormick, \$10.00.”

The Court found that the gift to Rothman was for a fund to construct a church; the gift to Weind for maintaining and operating an old folks' home; the gift to Kerley, to a society against prohibition; and McCormick's gift to a Committee appointed by an archbishop for church purposes. In each instance the gift was to an individual but the Court looked beyond to see for what purpose it was given.

In the case of *Rotterdam vs. C.I.R.*, 7 T.C.M. 46., taxpayer gave money to a member of the Jesuit Order instead of to the Order directly and the Court held the gift to the priest was a gift to the Order. The gift to the priest was not in his private capacity but as a representative of the Jesuit Order.

In the case of *Hofle vs. C.I.R.*, B.T.A. Memo Dec. 10, 045, taxpayers donated money to the head of a missionary movement in the form of checks payable to such organization. It was decided that such contributions to be to the organization instead of to the private individual as such. See also *Simpson vs. C.I.R.*, 19 B.T.A. 1059, where a taxpayer donated money to a committee holding a fund to purchase a rug for a church instead of to the church directly. It was held that such contribution was to the church, and to the committee indirectly. Taxpayer had confidence that the committee would carry out the purpose for which the committee was appointed, and he [the taxpayer] was allowed same.

In *Unity School of Christianity vs. C.I.R.*, 4 B.T.A. 61, it was said:

“This is a religious corporation. In consideration whether a corporation is religious, charitable or educational, we must always be guided by the character of the organization and its activities. Religion is not confined to a sect or a ritual. The symbols of religion to one are anathema to another.

What one may regard as charity, another may scorn as foolish waste. Even today education is not free from divergence of view as to its validity. Congress left open the door in tax exemption to all corporations meeting the test, the test being not the agency's specie of religion, science or education under which might operate, but as to the use of its profits and exclusive purpose of its existence.”

In the interesting case of *In Re Pierce Estate*, 3 T.C. 875, the plaintiffs spent the sum of \$1,593.73 for a quantity of radium which was turned over to Doctors Rugbey and Blassingame to treat poor people in a hospital they were building. The doctors did not charge for their services in connection with the use of the radium, and since the taxpayer claimed the value of the radium as a charitable deduction, the question arose as to whether or not this radium was given to a charitable and non-profit corporation. The Court firmly held that this was a contribution to a charitable corporation [organization] and was a deductible contribution.

In *Field vs. C.I.R.*, 26 B.T.A. 116, affirmed in 667 Federal 2nd 876, where taxpayers paid \$1,000.00 to the Insulin Committee of a hospital. It was held by the Court that the gift to the Committee was a gift to the hospital, and to the Committee only as an agency of the hospital.

Looking to 45 American Jurisprudence 723 for help in this matter, we find the following proposition of law:
“A religious society, in the general sense, is a body of persons organized for the purpose of maintaining public

religious worship of God, usually meeting in some stated place for the worship of God and for religious instruction. More elaborately, a religious or church society has been defined as a voluntary organization whose members are associated together not only for religious exercises, but also for the purpose of maintaining and supporting its ministry, providing for the conveniences of a church home, and promoting the growth and efficiency of the work of the general church of 19 which it forms a coordinate part . . . it [church] may mean the great body of persons holding the Christian belief , or, in a restricted sense, be confined, to those adhering to one of the several denominations of the Christian faith, at large or in a defined territory; and it may mean the collective membership of persons constituting the congregations of a single permanent place of worship,” and cases cited thereunder.

In 76 C.J.S. 736, it is said:

“A religious society is a body of Christian believers holding the same creed; a society of Christians meeting together in one place, under their proper pastors, for the performance of religious worship, and the exercise of Christian discipline, united together by covenant; a society of persons who profess the Christian religion; an assembly of persons united by the profession of the same Christian faith meeting together for religious worship,” and cases cited thereunder.

As to the purpose of Congress in allowing such charitable deductions, *Helvering vs. Bliss*, 79 L. Ed. 246, referring to 80 L. Ed. 278, the Court said:

“The exemption of income devoted to charity and the reduction of rate of tax on taxable gains were liberalization of the law in taxpayer’s favor, begotten from motives of public policy and are not to be narrowly construed.” Also it is stated in U.S. Congressional and Administrative News for 1954, 83rd Congress, at page 4025, to wit: “The Committee has made some changes in the Code. In general the purpose of these changes has been to remove inequities and to end harassment of the taxpayers and to reduce the tax burden . . .” Senate Report 1662 and House Report 1337, 83rd Congress, accompanying Section 170, Internal Revenue Code of 1954, also are helpful in determining that Congress desired to liberalize the charitable instincts of the citizens, and had in mind inclusion in the broad sense charitable organizations of all types, kinds and characters that might please the individual citizens, including churches, as are included in the Code. The fact that percentage deductions were increased from 15 percent to 20 percent on charitable deductions is significant of the intent of Congress in this connection, as per the original percentage allowance as to gross income as compared with the present allowance. In *Reynolds vs. U.S.* 25 L.E. 244, the Court said: 20 “The provision that Congress shall make no laws respecting the establishment of religion, or prohibiting the free exercise thereof, effectually guarantees the religious liberty of the individual against infringement by the Federal Government.”

Also, quoting from *Cantwell vs. Connecticut*, 310 U.S. 296, we read:

“The Constitutional inhibition of legislation on the subject of religion has a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion.”

It is believed that the petitioners in this case certainly meet all the requirements of the Codes, that they are lawful, and that they love the Lord Jesus Christ. They desire to express their religious convictions in a way that will honor Him. This they have done. They meet as they believe the Lord wants them to meet, with the people they believe the Lord wants them to meet with. They support the ministers they believe the Lord wants them to support, and they take joy in doing the things they are doing. There has been abundant evidence introduced in this case proving that the ministering brethren to whom this money was given, preach regularly to the members

of this church and hold all types and sorts of services, and that the members participate thereby in an organized manner. It is verily organized with stated meetings, stated street meetings, stated radio programs, and men assembling in business meetings. It is a corporation in every essential sense of the word. There is emphasis on proper home planning and training of the children, and young people's activities. That is organization in every essential sense of the word. A group of people have been meeting in the Los Angeles area for years who are a part of the church which is the body of Christ, the corpus Christi.

Wherefore, your petitioners humbly petition the Court to grant the relief asked for by granting them judgment against defendant for a refund of the taxes paid in the years 1952, 1954, and 1955 as prayed for in their original complaint and petition filed herein. They appreciate very much the gracious attitude of the Court, the kind attention and participation by the Court in the trial of this case consistent with the law. They hope the Court received something from this case that the Court will long remember. They are sincerely convinced that they are organized, that they are entitled to equal recognition under the Internal Revenue Code consistent with the First Amendment to the Constitution of the United States of America -- "one nation under God," that the decision of the Court re-affirm what is the crux of this case -- the separation of Church and State.

DALFORD TODD & STERLING CLAYTON
Attorney for Plaintiffs²¹

BY: [S] _____

Dalford Todd

FILED

June 8, 1962

Clerk U.S. District Court
Southern District of California

by [S] _____

Deputy Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

CENTRAL DIVISION

CLARENCE L. MOREY AND
WIFE A. LOIS MOREY,
Plaintiffs,

Vs. No. 1100-60-WB Civil
ROBERT A. RIDDELL

Director of Internal Revenue,
District of Los Angeles
Defendant.

ORDER FOR JUDGMENT

Plaintiffs seek recovery of \$5,715.23 in income paid and allegedly erroneously assessed for the years 1952, 1954, and 1955. The assessment complained of resulted from the disallowance of deductions from gross income taken by plaintiffs for the sums they contributed in each of the three years to the church of which they are members.

Plaintiffs contend that the deductions were lawful under the provisions of Section 23 of the Internal Revenue Code of 1939 and Section 170 of the Internal Revenue Code of 19541, in that they represented contributions for the use of an association organized in the United States exclusively for such religious purposes and operated exclusively for such purposes, with no part of its net earnings inuring to the benefit of any individual. The Government does not dispute and it is manifest from the evidence that the purposes of the church are exclusively religious. The Government rests its position that the contributions do not qualify as deductions principally on the argument that the church is not in fact an “organized” association as contemplated by the statute. This argument is based on the fact that the church has no distinctive identifying name; that it has no written charter, constitution, by-laws, or operational guide other than the Holy Bible; That it has no permanent headquarters; that it does not maintain comprehensive records; and that its funds are not held in a bank account designated as the church account. 22 These factors noted by the Government might normally be indicative of an absence of unity of purpose or operation. However, in the case of the church in question, they stem from the very doctrinal ties that bind its members together. The members of this church regard themselves simply as members of the body of Christ, that is, members of the body of persons following the teachings of Christ as revealed in the New Testament. They have refrained from adopting a denominational name and any written organizational guide supplementary to the New Testament because they believe that to do so would be to add an arbitrary gloss to biblical precepts, thus obscuring the word of God. Yet, in their adherence to this philosophy, they have bound themselves together in an organized association. Many of them have worshipped and worked together for years in furtherance of the church. They hold regular public meetings in homes and rented quarters for Bible study, worship and evangelism. They assemble together in “camp meeting.” As an association, they sponsor radio broadcasts and print and distribute Bible literature. They recognize specific individuals as ministers and as church officers, from whom they accept guidance. Through the years their ministers have regularly performed marriage ceremonies accepted as valid by civil authorities. Thus, while the church lacks some of the common indicia of organization, it plainly is an organized association of persons dedicated to religious purposes.

The Government urges that even if the church is an organized association, it was not organized in the United States, as is required by the statute. The basis for this contention is certain testimony that the church had its beginnings in Jerusalem in A.D. 33. It is perfectly obvious that what was meant by this testimony was that the Christian church in the all-inclusive sense began in Jerusalem in A.D. 33. There is no doubt that the association constituting the church for whose use the contributions were made was organized in the United States. It is suggested by the Government that the church does not qualify as a beneficiary for deductible contributions because no showing has been made that in the event of its dissolution its assets would by operation of law be distributed solely for religious purposes. This suggestion is prompted by Section 1.501 [c] [3]-1 of the Income Tax Regulations -- 1954 Code, 26 C.F.R. § 1.501 [c] [3]-1, which establishes certain tests which an organization must meet to be certified as exempt from income taxation -- one of such tests being that upon dissolution its assets must be distributable solely for an exempt purpose, either by the terms of its articles or by operation of law. This regulation has no governing force in respect to the determination of the deductibility of plaintiffs’ contributions for two reasons. It had not yet been promulgated at the time the contributions were made or the returns filed.² By its terms it is applicable in determining the eligibility of an organization to be certified as tax-exempt under the provisions of Internal Revenue Code Section 501, not in determining whether the organization qualifies as a beneficiary for deductible contributions under Internal Revenue Code Section 170.²³ The Court recognizes, however, that the two Code sections are companion provisions in the sense that they both reflect a Congressional purpose to encourage the activities of the specified organizations by special tax benefits. Thus, to the extent that a regulation promulgated under Section 501 is designed to effectuate the common Congressional purpose, it may afford some general guidance in the proper interpretation of Section 170. The regulation cited by the Government is obviously intended as a safeguard against the possibility that funds accumulated by an organization by reason of its tax-exempt status might, in the event of its dissolution, be used for purposes other than those to which it was dedicated. By analogy, it would seem a reasonable interpretation of Section 170 that an organization should be organized and operated in such a manner as to provide some assurance that contributions made to further its purposes would not, in the event of its dissolution, be used for

other purposes. But, in the present case, it would be purely academic for the Court to engage in an inquiry as to whether, in the event of the dissolution of the church association in question, the laws of all the states in which it operates would assure the distribution of its assets for religious purposes only. The evidence at the trial established that the church operates in such a manner that its income is expended almost upon receipt in order to carry on its activities, and that there is no substantial accumulation either in the form of savings or physical assets. It is evident that the contributions made by the plaintiffs have long since been spent in furtherance of the religious purposes of the church, and that there is no possibility of their application to other uses.

The Government also disputes the deductibility of plaintiffs' contributions to their church because the contributions were made by checks payable to the order of four of its church's ministers. The Government cites several cases in which bequests to members of religious orders were held to be non-deductible, even though the bequests inured to the benefit of the order.³ These cases are factually distinguishable because in each the Court found that the testator intended to make the bequest to the named individual. In the present case, it is clear from the evidence that plaintiffs did not intend to make contributions to the ministers, individually, but placed the funds in their hands, as agents, for the use of the church.

The Government's final argument is that plaintiffs' contributions were not deductible because they inured to the benefit of individuals. The individuals benefited were the church's recognized ministers, who employed a portion of the contributions given for the use of the church to pay their living expenses. Such use of the contributions does not constitute a departure from the statutory requirement that no part of the net profits of the organization shall inure to the benefit of any individual, for the sums expended to meet the living expenses of the ministers were no part of the net profits of the church. They were monies expended to meet legitimate expenses of the church in implementing its religious purposes. These expenses were of the same character as the salaries paid by any religious or charitable organization to its staff. The evidence was clear that the ministers devoted the major portion of their time to the work of the church and that the amount of church funds used to pay their modest living expenses was small in comparison to the extent of their services. The Court concludes that the church for whose use plaintiffs' contributions were made met the statutory requirements for a beneficiary of deductible contributions, and that plaintiffs were entitled to deduct such contributions from gross income in computing their net taxable income for the years 1952, 1954, and 1955. Judgment will enter for plaintiffs upon findings and conclusions to be submitted to the Rules.

Dated : June 5, 1962.
ALFONSO J. ZIRPOLI

United States District Judge.
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA,
CENTRAL DIVISION
CLARENCE L. MOREY AND
WIFE, A. LOIS MOREY,
Plaintiffs,
Vs. No. 1100-60-WB Civil
ROBERT A. RIDDELL,
Director of Internal Revenue,
District of Los Angeles
Defendant.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This cause came on for trial, and the Court, having heard the evidence and considered the stipulations of the parties, finds the facts and states the conclusions of law and enters judgment as follows:

FINDINGS OF FACT

1. The Plaintiffs, Clarence L. Morey and his wife, A. Lois Morey, are residents of Long Beach, Los Angeles County, California, and for the years of 1952, 1954, and 1955 timely filed their federal income tax returns with Robert A. Riddell, District Director of Internal Revenue at Los Angeles, California. On said returns plaintiffs claimed deductions for payments made to certain individuals in the amounts of \$2,515.00 for 1952, \$2,640 for 1954 and \$3,380 for 1955. The claimed deductions were disallowed by the District Director and deficiencies in income tax were assessed in the amounts of \$1,625.40 for 1952, \$1,892.32 for 1954 and \$2,197.47 for 1955. Plaintiffs paid the amounts assessed and timely filed claims for refund. The claims for refund were not allowed by the District Director and thereafter this action was timely commenced in the District Court for the Southern District of California, Central Division.
2. Plaintiffs are members of a church that has no distinctive identifying name, other than the designation accepted by the members thereof as "the church which is Christ's Body," no written charter, constitution, by-law, or operation guide other than the Holy Bible, no permanent headquarters, [other than as set forth in paragraph [5] of these findings of fact], no bank account designated as the church account and does not maintain comprehensive records.
3. The church members have refrained from adopting a denominational name and any written organizational guide supplementary to the New Testament because they believe that to do so would be to add an arbitrary gloss to Biblical precepts, thus obscuring the Word of God. Adherence to their philosophy binds the members together in an organized association of Section 23 of the Internal Revenue Code of 1939 and Section 170 of the Internal Revenue Code of 1954.
4. The church was organized in the United States within the meaning and contemplation of Section 23 of the Internal Revenue Code of 1939 and Section 170 of the Internal Revenue Code of 1954.
5. The church is operated exclusively for religious and charitable purposes within the meaning and contemplation of Section 23 of the Internal Revenue code of 1939 and Section 170 of the Internal Revenue Code of 1954. Included among the activities of the church are the regular holding of public meetings in homes and rented quarters for Bible study, worship and evangelism; the assembling together in "camp meetings"; the sponsoring of radio broadcasts; and the printing and distribution of Biblical literature.

6. The church recognizes specific individuals as ministers and church officers from whom they accept guidance. Through the years their ministers have regularly performed marriage ceremonies accepted as valid by civil authorities.

7. Although the contributions of plaintiffs were made by checks payable to the order of four of the church's ministers, plaintiffs did not intend to make contributions to the ministers individually but placed the funds in their hands, as agents, for the use of the church.

8. Although the ministers employed a portion of the contributions given for the use of their church to pay their living expenses, the monies were expected to meet legitimate expenses of the church in implementing its religious purposes and, therefore, did not inure to the benefit of the individuals within the meaning and contemplation of Section 23 of the Internal Revenue Code of 1939 and Section 170 of the Internal Revenue Code of 1954.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the subject matter and of the parties.

2. Article 1 of the Bill of Rights of the Constitution of the United States does not prohibit Congress from prescribing the conditions under which contributions made for religious or charitable purposes may be allowed as deductions from gross income for federal income tax purposes.

3. Article 1 of the Bill of Rights of the Constitution of the United States does not prohibit Congress from delegating to the Commissioner of Internal Revenue the power to determine what requirements must be met in order to constitute a charitable or religious corporation within the meaning and contemplation of the federal income tax laws.

4. Section 1,501 [c] [3]-1 of Treasury Regulations on Income Tax [1954], which established certain tests an organization must meet in order to be certified as exempt from income taxation, has no governing force in respect to the determination of the deductibility of plaintiffs' contributions because it had not yet been promulgated at time the contributions were made or the tax returns filed and because by its terms it is applicable in determining the eligibility of an organization to be certified as tax-exempt under the provisions of Section 501 of the Internal Revenue Code of 1954, not in determining whether the organization qualifies as a beneficiary for deductible contributions under Section 170 of the Internal revenue Code of 1954.

5. The payments made by plaintiffs to individuals during the years 1952, 1954 and 1955 in the respective amounts of \$2,515, \$2,640 and \$3,380 constitute contributions made to an association organized and operated exclusively for religious purposes within the meaning and contemplation of Section 23 of the Internal Revenue Code of 1939 and Section 170 of the Internal Revenue Code of 1954.

6. The District Director of Internal Revenue has erroneously assessed and collected income taxes from the plaintiff for the years 1952, 1954 and 1955 in the respective amounts of \$1,625.40, \$1,819.32 and \$2,197.47.

7. Every Finding of Fact deemed to be a Conclusion of Law is hereby concluded as a matter of law.

JUDGMENT

In accordance with the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiffs, Clarence L. Morey and A. Lois Morey, have judgment against defendant, Robert A. Riddell, District Director of Internal Revenue, in amounts of \$1,625.40 for the year 1952, \$1,892.32 for the year 1954, and \$2,197.47 for the year 1955, totaling \$5,715.25, together with interest according to law, as well as \$-----for its costs and disbursements herein.

Dated : November 15, 1962.

Alfonso J. Zirpoli
United States District Judge

LETTER TO MR. CAPLIN, COMMISSIONER OF INTERNAL REVENUE

After the conclusion of the Morey Case, another case of like import was examined by the Commissioner of Internal Revenue [Mr. Caplin], giving opportunity for the following letter. We believe this letter to be a fitting lose to this testimony.

Box 21, Los Angeles 42, Calif.
June 7, 1963
Re: Dalford & Pansy Todd
820 Clearfork
Dallas 32, Texas
1958-59 Income Tax--
Charitable Deductions
Mr. Mortimer M. Caplin
Commissioner of Internal Revenue
U.S. Treasury Department
Washington 25, D.C.

Dear Mr. Caplin:

I am not writing you as though you were Cog or button number So & So in a vast machine, but as a highly respected and an important human being in our United States Government. Nor am I coming as a whining or fearful religious quack, but as an elderly minister of Jesus Christ the Lord, and a grateful and law-abiding citizen of the United States of America.

It is in that confidence that I seek this personal conference with you in the matter of the pending income tax case of Dalford and Pansy Todd, 820 Clearfork, Dallas 32, Texas. I am the oldest of the ministers whose names appear and whose voices were heard in the case of Morey vs. Riddell [S.D. California, 62-2-USTC, par. 9673], which case was decided, as you know, in favor of brother and sister Morey. To all of us Christians who are inseparably and gladly involved in this case with Mr. and Mrs. Todd, the phrase "One nation under God" makes our pledge of allegiance to our properly constituted civil authorities a delightful privilege and a sacred responsibility. This phrase, "One nation under God," also declares to us very clearly and unequivocally that our nation is "under God" and must never be regarded as over Him.

We have not been, nor do we intend to be, triflers either with God or with our civil Government. In fact, our fear of you and the whole Internal Revenue Department of our Government stems from, and is made intelligent and strong because of the fact that we do fear the Diety, and we are not out for dollars.

Several of our Federal lawyers have all but impatiently chided us for not forming some kind of “non-profit religious corporation” and have told us how simple, inexpensive and sufficient our own “creation” would be. “All of this needless talk and trouble would then be unnecessary,” we were assured. It is not that simple. Our gladly accepted “problem” is that we have to deal with God, the God who has spoken very surely, very plainly and quite sufficiently and, we believe, with supreme authority on the subject of “the church,” “the church which is Christ’s body.” Therefore, having this “official” revelation from Him as to the character and conduct of His “non-profit religious corporation,” “the church which is Christ’s body,” we respectfully ask our “one nation under” Him to regard us as loyal, obedient and legally acknowledged members of what we are--members of “the church which is Christ’s body.” Believing that “taxation without representation is tyranny,” we respectfully urge you to allow another word of “representation” inherent in and inseparable from this question as to whether or not we are a duly organized and legally constituted “non-profit religious corporation.” If we are not, then I have contributed to the moral delinquency of three daughters and my son, for I “officiated” at their “weddings” and those “weddings” were absolutely illegal if I was not then an “ordained minister of Jesus Christ” recognized by and serving among many members of the “church which is Christ’s body.” I have also “illegally officiated” at many other “Christian weddings” for over thirty years. My seventeen grand-children are growing up to be law-abiding, tax-paying, patriotic citizens in this “one nation under God” and by the grace of God, they will not and cannot intelligently believe that Almighty God gets his directions for His church from any civil government on the face of the earth. They are being taught that their parents were legitimately married by their legitimately ordained grand-father and that they were legally and properly named. There are scores of others of our Christian brethren whose marriages and whose children are involved in these income tax cases.

Mr. Caplin, the fears expressed by some of the Federal attorneys that this “Bible type” of “non-profit religious corporation” might “open the doors for just any kind of crook” were fears based on hasty judgment. They were most shallow and irrelevant. No one need tell you that “organized crime” is the most dangerous, and organized Christendom increasingly profitable. The “church which is Christ’s body” in its Bible simplicity is its best possible guarantee against hypocrites and thieves. We are in the GIVING business. We are essentially NON-PROFIT. We have none of the institutionalism that has nearly always drifted away from its own original non-profit character and purpose. The God that this nation is “UNDER” both authorizes and describes the character and conduct of the “non-profit religious corporation,” “the church which is Christ’s body” -- that we are members of, and are functioning in.

Mr. Caplin, we sincerely and fervently pray that you will not allow a purely technical interpretation of some of our laws to prevent you from seeing this case in its splendid entirety. In God’s Word we are told that “the law is for the lawless . . .” -- 1 Tim. 1:9. Through our United States tax codes were not immediately involved in this Scripture, we believe it is apropos. We respectfully ask you to abide by the decision of Federal Judge Zirpoli in the Morey vs. Riddell case as you deal with the Dalford and Pansy Todd case.

Respectfully yours,
Maurice M. Johnson,
Minister of Christ
M.M.J./FEJ

Matt. 22:21: They say unto him, Caesar's. Then saith he unto them, Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's. Acts 22:25: And as they bound him with thongs, Paul said unto the centurion that stood by, Is it lawful for you to scourge a man that is a Roman, and uncondemned? Acts 25:8: While he answered for himself, Neither against the law of the Jews, neither against the temple, nor yet against Caesar, have I offended any thing at all. 9: But Festus, willing to do the Jews a pleasure, answered Paul, and said, Wilt thou go up to Jerusalem, and there be judged of these things before me? 10: Then said Paul, I stand at Caesar's judgment seat, where I ought to be judged: to the Jews have I done no wrong, as thou very well knowest. 11: For if I be an offender, or have committed any thing worthy of death, I refuse not to die: but if there be none of these things whereof these accuse me, no man may deliver me unto them.

I appeal unto Caesar. 12: Then Festus, when he had conferred with the council, answered, Hast thou appealed unto Caesar? unto Caesar shalt thou go Eph. 4:3: Endeavouring to keep the unity of the Spirit in the bond of peace. 4: There is one body, and one Spirit, even as ye are called in one hope of your calling; 5: One Lord, one faith, one baptism, Jude 1:1: Jude, the servant of Jesus Christ, and brother of James, to them that are sanctified by God the Father, and preserved in Jesus Christ, and called: 2: Mercy unto you, and peace, and love, be multiplied. 3: Beloved, when I gave all diligence to write unto you of the common salvation, it was needful for me to write unto you, and exhort you that ye should earnestly contend for the faith which was once delivered unto the saints. 4: For there are certain men crept in unawares, who were before of old ordained to this condemnation, ungodly men, turning the grace of our God into lasciviousness, and denying the only Lord God, and our Lord Jesus Christ. 5: I will therefore put you in remembrance, though ye once knew this, how that the Lord, having saved the people out of the land of Egypt, afterward destroyed them that believed not. 6: And the angels which kept not their first estate, but left their own habitation, he hath reserved in everlasting chains under darkness unto the judgment of the great day. 7: Even as Sodom and Gomorrha, and the cities about them in like manner, giving themselves over to fornication, and going after strange flesh, are set forth for an example, suffering the vengeance of eternal fire. 8: Likewise also these filthy dreamers defile the flesh, despise dominion, and speak evil of dignities. 9: Yet Michael the archangel, when contending with the devil he disputed about the body of Moses, durst not bring against him a railing accusation, but said, The Lord rebuke thee. 10: But these speak evil of those things which they know not: but what they know naturally, as brute beasts, in those things they corrupt themselves. 11: Woe unto them! For they have gone in the way of Cain, and ran greedily after the error of Balaam for reward, and perished in the gainsaying of Core. 12: These are spots in your feasts of charity, when they feast with you, feeding themselves without fear: clouds they are without water, carried about of winds; trees whose fruit withereth, without fruit, twice dead, plucked up by the roots; 13: Raging waves of the sea, foaming out their own shame; wandering stars, to whom is reserved the blackness of darkness for ever. 14: And Enoch also, the seventh from Adam, prophesied of these, saying, Behold, the Lord cometh with ten thousands of his saints, 15: To execute judgment upon all, and to convince all that are ungodly among them of all their ungodly deeds which they have ungodly committed, and of all their hard speeches which ungodly sinners have spoken against him. 16: These are murmurers, complainers, walking after their own lusts; and their mouth speaketh great swelling words, having men's persons in admiration because of advantage. 17: But, beloved, remember ye the words which were spoken before of the apostles of our Lord Jesus Christ; 18: How that they told you there should be mockers in the last time, who should walk after their own ungodly lusts. 19: These be they who separate themselves, sensual, having not the Spirit. 20: But ye, beloved, building up yourselves on your most holy faith, praying in the Holy Ghost, 21: Keep yourselves in the love of God, looking for the mercy of our Lord Jesus Christ unto eternal life. 22: And of some have compassion, making a difference: 23: And others save with fear, pulling them out of the fire; hating even the garment spotted by the flesh. 24: Now unto him that is able to keep you from falling, and to present you faultless before the presence of his glory with exceeding joy, 25: To the only wise God our Saviour, be glory and majesty, dominion and power, both now and ever. Amen.

1. Section 23 of the Internal Revenue Code of 1939 provides in pertinent part:

“Deductions from gross income. In computing net income there shall be allowed as deductions: . . . [o] Charitable and other contributions. In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of: . . . [2] A corporation, trust, or community chest, fund or foundation created or organized in the United States or in any possession thereof or under the law of the United States or of any State or Territory or of any possession of the United States, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.”

Section 170 of the Internal Revenue Code of 1954 provides in pertinent part: “Charitable, etc., contributions and gifts. [a] Allowance of deduction. -- [1] General rule. -- There shall be allowed as a deduction any charitable contribution [as defined in subsection [c] payment of which is made within the taxable year . . . [c] Charitable contribution defined. -- For purposes of this section, the term “charitable contribution “ means a contribution or gift to or for the use of -- . . . [2] A corporation, trust, or community chest, fund, or foundation -- [A] created or organized in the United States or in any possession thereof, or under the law of the United States, any State or Territory, the District of Columbia, or any possession of the United States; [B] organized and operated exclusively for religious , charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals; [C] no part of the net earnings of which inures to the benefit of any private shareholder or individual; and [D] no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.”

Both the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954 define the word “corporation” to include associations. Section 3796 Internal Revenue Code of 1939; Section 7701, Internal Revenue Code of 1954.

2. Section 1.501 [c] [3]-1 of the Income Tax Regulations -- 1954 Code was promulgated on June 26, 1959, T.D. 6391, 24 F.R. 5217.

3. Cox v. Commissioner of Internal Revenue, 297 F. 2d 36 [2 Cir. 1961]; Estate of Charles J. Berry, 34 T.C. 160 [1960]; Estate of Margaret E. Callaghan, 33 T.C. 870 [1960].

THE END

EPILOGUE (50 years later— 07/29/2013)

Those of us who took part in the efforts of Brother Maurice Johnson were thankful for the judgment rendered by Judge Alfonso J. Zirpoli on November 15, 1962, and we were grateful for the opportunity to give testimony to the one true church of which the Bible spoke. We rejoiced for 37 years, walking with a clear conscience and resting in the judgment of Judge Zirpoli. However, in 1999, our conscience compelled us to change the way we handled funds. The IRS questioned us from time to time over those 37 years due to the unusual nature of our claim for tax deductions. In each case, we referenced the decision of Judge Zirpoli, and our claims for deduction were granted. However, in time it became necessary to seek legal counsel, and our attorney advised us that we were no longer in compliance with the current tax law or the Internal Revenue codes that address such claims. In addition, we were told that if the case were tried again, we would surely lose it. We were also advised that in all probability, the IRS had not retried the case because the dollars involved were not large enough to make doing so worthwhile.

Based on this advice, our own examination of the current law, and the way we were handling funds, we concluded that we were out of compliance for two reasons. First, the tax code had changed since 1952, 1954, and 1955, and the ruling of *Morey v. Riddle* was based on the code as it stood in those years. Second, we had changed the way we were handling monies as of the time the judgment was rendered. Contrary to our brethren's testimony during the trial, we were no longer expending monies upon receipt, and we had a considerable amount of personal assets, including cash that was held by individual ministers for the support of his ministry to the church and to the world.

Those of us whom the ministry supported, along with other responsible brethren across the United States, began counseling together about this matter between 1996 and 1997. Once we were convinced that we were out of compliance with the current tax code, we believed that we needed to do something to be in compliance. In Romans 13: 4-6, the scriptures clearly state: For [the government] is God's minister to you for good. But if you do evil, be afraid; for he does not bear the sword in vain; for he is God's minister, an avenger to execute wrath on him who practices evil. Therefore you must be subject, not only because of wrath but also for conscience' sake. For because of this you also pay taxes, for they are God's ministers attending to this very thing.

According to our heavenly father and The Head of The Church, we should be in compliance with the tax law as part of our Christian testimony to have a clear conscience and to avoid the trouble that comes from disobeying the law. As we came to this conviction, we looked for ways that we could interface with the IRS in such a way that we would be in compliance with the current tax law and IRS code in the way we were handling funds and not violate the biblical principles that were laid out in *Morey v. Riddle*. If we did so, we could not start a church, name a church, or join members to a church other than the one found in the Bible. It would also mean that we could not come up with alternative statements of faith. We agreed that if there was no way that we could do these things, we would give up the financial benefit of taking contributions for the support of the ministers and the function of the church as a tax deduction from the personal income taxes of donors.

The change we felt convicted to make did not reflect a change in our confidence in the biblical truths pointed out in the *Morey v. Riddle* case, a change in our ministry, or a change in our walk in areas directed by God's word. By our understanding, three things have changed from the testimony given by our brethren in *Morey v. Riddle*: the tax law and codes, the way we were handling money, and the idea that we could use a legal entity called a corporation to handle the funds and assets used by the ministers to support their ministries and the work of the church. We concluded that we could adapt to these changes without compromising the truth we preach or changing our understanding of truths presented in the Bible. Therefore, if the IRS accepted these terms, then we could continue taking the aforementioned tax deductions. We formed a 501(c)(3) corporation, which was not a church and did not have members or a statement of faith other than the one found in the Bible. Its purpose was to receive, hold, distribute, and account for the contributions made for the support of the activities of the church and the ministers who were in full-time ministry. We would be recognizing a distinction the Lord Jesus Christ made in Mark 12: 13-17 when he was specifically questioned about paying taxes: Then they sent to Him some of the Pharisees and the Herodians, to catch Him in His words. When they had come, they said to Him, "Teacher, we know that You are true, and care about no one; for You do not regard the person of men, but teach the way of God in truth. Is it lawful to pay taxes to Caesar, or not? Shall we pay, or shall we not pay?" But He, knowing their hypocrisy, said to them, "Why do you test Me? Bring Me a denarius that I may see it."

So they brought it. And He said to them, “Whose image and inscription is this?” They said to Him, “Caesar’s.” And Jesus answered and said to them, “Render to Caesar the things that are Caesar’s, and to God the things that are God’s.” And they marveled at Him. In this way, those of us in the ministry would be accountable to the brethren for the handling of funds as we always have been. In addition, we would have the added responsibility of reporting the use of the funds to the IRS so they would know the funds were used in a way that was consistent with the law and IRS regulations. We believe 34 that if the IRS is going to give the tax relief, then they have a right and responsibility to know how the funds are being used; otherwise, the privilege could be abused. If we could get this status with the IRS and it worked as we envisioned it, then we could have a clear conscience before God and ultimately pursue that course. If it required us to change the content of our ministry or the IRS would not grant the status unless we applied as a church, then we would give up the deduction. We realize that any attorney can look at the law and the way we were handling funds and develop an argument for or against the necessity of the decision we made. Some attorneys might say we could have stood rock solid on the judgment of *Morey v. Riddle*, and other attorneys might say we did what was necessary to be in compliance with the law and IRS regulations. We prayerfully considered the arguments on both sides before making a decision, and we believe the decision we made was wise and godly. After several exchanges, the IRS approved our decision. On November 19, 1999, I was the first of those in the ministry to begin using “Robert A. Grove Ministries,” a 501(c)(3) corporation, to fund my ministry and service consistent with what I had been rendering for the preceding twenty plus years of full-time ministry. Prior to November 19, 1999, I was receiving funds and tracking them through the Robert A. Grove Gospel Fund checking account. Now, I am tracking them through the “Robert A. Grove Ministries” checking account and accounting system. I report their use to the brethren as I always have, in addition to filling out the required forms with the IRS. In time, all of the ministers who were supported in full-time ministry began handling their funds the same way. To my knowledge, over the past 13 years, there has been no effort on the part of the IRS to influence what we believe or what we preach. Aside from the inconvenience of having to keep more careful records and fill out additional forms, we have not changed the way we function.

Before coming to this conclusion, we had several meetings across the United States to discuss the situation and study the scriptures with ministering brethren, responsible men, and assemblies as a whole. We went over our understanding of the law as well as our history of handling funds. We allowed time for questions from brethren, which were answered privately and in meetings, both verbally and in writing. We received written objections, which we prayerfully considered and to which we responded, and with increased confidence, we went ahead with our decision. Some members took a wait-and-see attitude. At that time, there were a very small few who did not think it was the wise or spiritual thing to do. Since 1999, I and those who made the same decision have been able to serve the Lord as we have served sinners and saints with the confidence that we were obeying God, being in compliance with the law and not violating biblical truths by starting, naming, or joining members to a man-made church. I rest in the confidence that we are obeying Mark 12:13-17 “... 17 And Jesus answered and said to them, ‘Render to Caesar the things that are Caesar’s, and to God the things that are God’s.’ And they marveled at Him.”

I and those supporting me are committed to in a practical way function consistent with the truth in 1 Corinthians 12: 13, which states “For by one Spirit we were all baptized into one body – whether Jews or Greeks, whether slaves or free – and have all been made to drink into one Spirit.” We believe this is instruction to the very practical and very visible church that is described in the Bible, of which all believers in Jesus Christ as Lord and Savior are a part. They are made members by The Head of The Church, Jesus Christ, as we are told in 1 Corinthians 12: 13. It is sad to say that most of its members believe that in some way they can better serve and please God by joining or supporting some other church. In a lifetime of studying the Bible, I have been unable to find support for this understanding or conviction.

Robert Grove

07/29/2013